

## CHAMBESHI – LUKANGA SANITATION PROJECT



### **BIDDING DOCUMENTS FOR PROCUREMENT OF WORKS**

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# Construction of Faecal Sludge Treatment Plant (FSTP) for Mpulungu Town

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**Issued on: 03<sup>rd</sup> November 2020**

**NCB No.: *IFP/SNV/WASH-FSTP/2020/MPL/001***

SNV Netherlands Development Organisation  
7 Nkanchibaya Road, Rhodespark  
P. O Box 31771  
Lusaka, Zambia

## Invitation for Bids (IFB)

### **Tender for the Construction of Faecal Sludge Treatment Plant (FSTP) in Mpulungu Town. Reference No: IFP/SNV/WASH-FSTP/2020/MPL/001**

SNV in Zambia is implementing the Dutch funded Chambeshi-Lukanga Sanitation project (as part of the WASH SDG Programme) in partnership with Chambeshi and Lukanga Water and Sanitation Companies as well as the respective Local Authorities of Kabwe, Kasama, Mbala, Nakonde and Mpulungu. The project will contribute to achieving access to safely managed sanitation and improved hygiene behaviour for 200,000 and 260,000 people respectively in peri-urban/urban areas of the stated towns. The project aims to sustainably improve access to and use of sanitation services and improve hygiene behaviours from 2017 to 2022. This multi-country programme operates in Zambia as the Chambeshi – Lukanga Sanitation project. Part of the costs under the project will go towards the construction of a **Faecal Sludge Treatment Plant (FSTP)** in Mpulungu Town.

SNV in collaboration with Chambeshi Water Supply and Sanitation Company now invites sealed bids from prequalified eligible bidders for the **Construction of Faecal sludge Treatment Plant**. Under this project, the contractor(s) will be expected to deliver the construction of Faecal Sludge Treatment Plant (FSTP) in Mpulungu town.

Eligible bidders registered with the National Council for Construction in CATEGORY B, Grade 3, 4 or 5, duly registered with other relevant government authorities, a sound financial basis, relevant experience and reputation are invited to submit their bids as per set out guidelines. The bidders may obtain further information from the Senior Procurement Officer at [zambiaprourement@snv.org](mailto:zambiaprourement@snv.org). Telephone requests will not be honoured.

Bids must be delivered to the address below, before 10:00hrs local time, 01<sup>st</sup> December 2020. Late bids will be rejected and SNV reserves the right not to evaluate a nonresponsive or incomplete bid. Bids will be publicly opened in the presence of the bidders' designated representatives and anyone who choose to attend at the address below, on 01<sup>st</sup> December 2020 at 10:00hrs local time.

All bids must be submitted by both email and hard copy print versions. Please note that hard copy print versions should be submitted Mondays – Thursday between 08 – 17 hours and on Fridays between 08 – 13hours. The delivery address to be used for all email submissions is: [zambiaprourement@snv.org](mailto:zambiaprourement@snv.org) and use this assignment reference as subject.

Bids shall be submitted in accordance with the Instructions to Bidders contained in the bidding documents. Sealed and Bound hardcopy bids shall be in envelopes, clearly marked **"Tender for the Construction of Faecal Sludge Treatment Plant (FSTP) in Mpulungu Town. Reference No: "IFP/SNV/WASH-FSTP/2020/MPL/001"**. The bids shall be deposited in marked tender box addressed to the **Country Director, SNV Netherlands Development Organisation, No. 7 Nkanchibaya Road, Rhodespark. P.O Box 31771, Lusaka Zambia**

The Secretary,  
Procurement Committee  
For/Country Director,

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# **PART 1 – BIDDING PROCEDURES**



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## **Section I. Instructions to Bidders**

### **A. General**

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|--|---|
| <b>1. Scope of Bid</b>                     | <p>1.1 In connection with the Invitation for Bids specified in the Bid Data Sheet (BDS), SNV Netherlands Development Organisation Zambia (referred to as "SNV") in collaboration with Chambeshi Water Supply and Sanitation Company (referred to as "ChWSSC") as specified in the BDS, issue these Bidding Documents for the procurement of Works as specified in Section V, Works Requirements. The name, identification, and number of lots (contracts) of this National Competitive Bidding (NCB) process are specified in the BDS.</p> <p>1.2 The successful bidder will be expected to complete the Work by the intended supply and delivery date specified in the Contract.</p> <p>1.3 Throughout these Bidding Documents:</p> <ul style="list-style-type: none"> <li>a. the term "in writing" means communicated in written form and delivered against receipt;</li> <li>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</li> <li>c. "day" means calendar day.</li> <li>d. "Supervising Engineer" Chambeshi Water Supply and Sanitation Company or its appointed representative.</li> </ul> |
| <b>2. Source of funds</b>                  | <p>2.1 The Procuring Entity (SNV Zambia) indicated in the BDS intends to use project funds toward the cost of the project or programme named in the BDS. SNV intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.</p> <p>2.2 Payments by the procuring entity will be made only at the request and endorsement of the Supervising Engineer (ChWSSC).</p>   |
| <b>3. Corrupt and Fraudulent Practices</b> | <p>3.1 SNV and ChWSSC require that vendors and their agents (whether declared or not), and the employees of both, observe the highest ethical standards during the procurement process and execution of any resulting contracts.</p> <p>3.2 SNV:</p>  |



- a. will reject a bid for contracting if we determine that the potential vendor recommended for award—or any of its employees, agents, sub-consultants, sub-contractors, service providers, suppliers and/or their personnel—has directly or indirectly engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for a contract;
- b. will declare mis-procurement and cancel any outstanding portion of a contract if we determine at any time that representatives of the vendor or any SNV or ChWSSC staff involved in the procurement or related project activity have engaged in corrupt, fraudulent, collusive, coercive or obstructive practices during the procurement process or implementation of the contract.

#### 4. Eligible Bidders

- 3.1 A Bidder may be a firm that is a private entity, a government-owned entity—subject to ITB 4.5—or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS**, there is no limit on the number of members in a JV.
- 3.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if:
  - a) A bidder will be required to provide goods, works or non-consultancy services resulting from or directly related to consultancy services that they, or any affiliate of theirs, provided for the preparation or implementation of a project.
  - b) A bidder submits more than one bid, either individually or as a joint venture partner in another bid, except for permitted alternative bids. This will result in the disqualification of all bids in which the bidder is involved.
  - c) A bidder (including its personnel) has a close business or family relationship with a member of SNV staff who:
    - 1) is directly or indirectly involved in the preparation of the bidding documents or

- specifications of the contract, and/or the bid evaluation process of the contract.
- 2) would be involved in the implementation or supervision of the contract unless the conflict has been declared to SNV and resolved throughout the selection process and execution of the contract.
  - 3) may not be directly involved in the procurement but may share information with the staff who are involved in the preparation of bidding documents or supervision of the contract
- d) Bidder does not comply with all other conflict-of-interest declarations or conditions specified in any SNV bidding documents relevant to the procurement process
- 3.3 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.7. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of Zambia, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.
- 3.4 A Bidder that has been sanctioned by the Zambia Public Procurement Authority (ZPPA) in accordance with the above ITB 3.1, shall be ineligible to be awarded a government or SNV financed contract, or benefit from a SNV financed contract, financially or otherwise, during such period of time as the ZPPA shall determine.
- 3.5 A Statutory corporation or body or company in which Government has a majority or controlling interest shall be eligible only if they meet the provisions of Public Procurement Act No. 12 of 2008. To establish eligibility, the government-owned enterprise or institution should provide all relevant documents (including its charter) enough to demonstrate that it meets the provisions of the Public Procurement Act No. 12 of 2008.
- 3.6 Bidders shall provide such evidence of their continued eligibility satisfactory to SNV, as SNV shall reasonably request.

- 3.7 A Bidder shall not be under suspension from bidding by SNV as the result of the operation of a Bid-Securing Declaration.
- 3.8 Firms shall be excluded if:
- a) as a matter of law or official regulation, the Government prohibits commercial relations with that country, provided that Cooperating Partners involved are satisfied that such exclusion does not preclude effective competition for the supply of goods or related services required; or
  - b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Government prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.
- 3.9 This bidding is open only to eligible Bidders unless **specified in the BDS.**
- 3.10 A Bidder shall provide such evidence of eligibility satisfactory to SNV, as SNV shall reasonably request.
- 5. Eligible Materials, Equipment, and Services**
- 5.1 The materials, equipment and services to be supplied under the Contract and financed by SNV may have their origin in any country subject to the restrictions imposed by the government of Zambia or UN Security Council, and all expenditures under the Contract will not contravene such restrictions. At SNV'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 Documents**
- 6. Sections of Bidding Documents**
- 6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections specified below, and which should be read in conjunction with any Addenda issued in accordance with ITB 8.

**PART 1 Bidding Procedures**

- Section I. Instructions to Bidders (ITB)
- Section II. Bid Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria
- Section IV. Bidding form

**PART 2 Conditions of Contract and Contract Forms**

- Section V. General Contract Conditions (GCC)
- Section VI. Contract Forms

**PART 3 Works Requirements**

- Appendix 1. Bill of Quantities
- Appendix 2. Technical Specifications
- Appendix 3: Drawings

6.2 The Invitation for Bids issued by SNV is not part of the Bidding Documents.

6.3 Unless obtained directly from SNV, SNV is not responsible for the completeness of the Bidding Documents, responses to requests for clarification, the minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Documents in accordance with ITB 8. In case of any contradiction, authentic documents obtained directly from SNV shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its bid all information and documentation as is required by the Bidding Documents.

**7. Clarification of Bidding Documents, Site Visit, Pre-Bid Meeting**

7.1 A Bidder requiring any clarification of the Bidding Documents shall contact SNV in writing at SNV's address **specified in the BDS** or raise its enquiries during the pre-bid meeting if provided for in accordance with ITB 7.4. SNV will respond in writing to any request for clarification, provided that such request is received no later than seven (07) days prior to the deadline for submission of bids. SNV shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so, specified in the BDS, SNV shall also promptly publish its response at the web page identified in the BDS. Should the clarification result in changes to the essential elements of the Bidding Documents, SNV shall amend the Bidding Documents following the procedure under ITB 8 and ITB 22.2.

7.2 The Bidder shall visit and examine the site of works and its surroundings and obtain for itself on its own 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 SNV and ChWSSC 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 SNV or ChWSSC 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 If so specified in the BDS, the Bidder's designated representative is invited to attend a pre-bid meeting. 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 to submit any questions in writing, to reach SNV not later than one day before the meeting.
- 7.6 Minutes of the pre-bid meeting, if applicable, including the text of the questions asked by Bidders, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3. Any modification to the Bidding Documents that may become necessary as a result of the pre-bid meeting shall be made by SNV exclusively through the issue of an Addendum pursuant to ITB 8 and not through the minutes of the pre-bid meeting. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a Bidder.

**8. Amendment of Bidding Documents**

- 8.1 At any time prior to the deadline for submission of bids, SNV may amend the Bidding Documents by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from SNV in accordance with ITB 6.3. SNV shall also promptly publish the addendum on SNV's web page or platform in accordance with ITB 7.1.
- 8.3 To give Bidders reasonable time in which to take an addendum into account in preparing their bids, SNV may 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 SNV shall not 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 SNV, shall be written in the language **specified in the BDS**.
- 11. Documents Comprising the Bid**
- 11.1 The Bid shall comprise the following:
- (a) Letter of Bid and Appendix to Bid, in accordance with ITB 12;
  - (b) completed schedules as required, including priced Bill of Quantities, in accordance with ITB 12 and 14;
  - (c) Bid Security or Bid-Securing Declaration, in accordance with ITB 19.1;
  - (d) alternative bids, 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 continued qualified status or, if post-qualification applies, as specified in accordance with ITB 4.8, the Bidder's qualifications to perform the contract if its Bid is accepted.
  - (g) Technical Proposal in accordance with ITB 16.
  - (h) any other document **required in the BDS**.
- 11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.
- 11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.
- 12. Letter of Bid and Schedules**
- 12.1 The Letter of Bid and Schedules, including the Bill of Quantities, shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information

requested. In cases where the forms are not provided, the bidder can use a format of their choice.

### **13. Alternative Bids**

- 13.1 **Unless otherwise specified 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 Except as provided under ITB 13.4 below, Bidders wishing to offer technical alternatives to the requirements of the Bidding Documents must first price SNV's design as described in the Bidding Documents and shall further provide all information necessary for a complete evaluation of the alternative by SNV, 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 SNV.
- 13.4 **When specified in the BDS**, Bidders are permitted to submit alternative technical solutions for specified parts of the Works, and such parts **will be identified in the BDS**, as will the method for their evaluating, and described by Works Requirements section.

### **14. Bid Prices and Discounts**

- 14.1 The prices and discounts (including any price reduction) quoted by the Bidder in the Letter of Bid and in the Bill of Quantities shall conform to the requirements specified below.
- 14.2 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 shall be deemed covered by the rates for other items in the Bill of Quantities and will not be paid for separately by SNV. An item not listed in the priced Bill of Quantities shall be assumed to be not included in the Bid, and provided that the Bid is determined substantially responsive notwithstanding this omission, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison.
- 14.3 The price to be quoted in the Letter of Bid, in accordance with ITB 12.1, shall be the total price of the Bid, excluding any discounts offered.

- 14.4 The Bidder shall quote any discounts and the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 **Unless otherwise specified in the BDS** and the Contract, the rates and 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. In such a case, the Bidder shall furnish the indices and weightings for the price adjustment formulae in the Schedule of Adjustment Data and SNV may require the Bidder to justify its proposed indices and weightings.
- 14.6 If so, specified in ITB 1.1, bids are being invited for individual lots (contracts) or for any combination of lots (packages). Bidders wishing to offer discounts 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. Discounts shall be submitted in accordance with ITB 14.4, provided the bids for all lots (contracts) are opened at the same time.
- 14.7 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days 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. Currencies of Bid and Payment**
- 15.1 The currency of the bid and the currency of payments shall be **as specified in the BDS**.
- 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 IV – Bidding Forms, in sufficient detail to demonstrate the adequacy of the Bidder’s proposal to meet the work requirements and the completion time.
- 17. Documents Establishing the Qualifications of the Bidder**
- 17.1 In accordance with Section III, Evaluation and Qualification Criteria, to establish that the Bidder continues to meet the criteria used at the time of prequalification, the Bidder shall provide in the corresponding information sheets included in Section IV, Bidding Forms, updated information on any assessed aspect that changed from that time, or if post-qualification applies as specified in ITB 4.8, the Bidder shall provide the information requested in the corresponding information sheets included in Section IV, Bidding Forms.
- 17.2 If a margin of preference applies as specified in accordance with ITB 33.1, domestic Bidders, individually or in joint



ventures, applying for eligibility for domestic preference shall supply all information required to satisfy the criteria for eligibility specified in accordance with ITB 33.1.

17.3 Any change in the structure or formation of a Bidder after being prequalified and invited to Bid (including, in the case of a JV, any change in the structure or formation of any member thereto) shall be subject to the written approval of SNV prior to the deadline for submission of Bids. Such approval shall be denied if (i) a Bidder proposes to associate with a disqualified Bidder or in case of a disqualified joint venture, any of its members; (ii) as a consequence of the change, the Bidder no longer substantially meets the qualification criteria set forth in Section III, Qualification Criteria and Requirements; or (iii) in the opinion of SNV, the change may result in a substantial reduction in competition. Any such change should be submitted to SNV not later than fourteen (14) days after the date of the Invitation for Bids.

#### **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 SNV in accordance with ITB 22.1. A bid valid for a shorter period shall be rejected by SNV as nonresponsive.

18.2 In exceptional circumstances, prior to the expiration of the bid validity period, SNV 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 for twenty-eight (28) 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, except as provided in ITB 18.3.

18.3 If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:

(a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.

(b) In the case of adjustable price contracts, no adjustment shall be made.

(c) In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.

#### **19. Bid Security**

19.1 The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a bid security **as specified in the BDS**, in original form and, in the case of a bid security, in the amount and currency **specified in the BDS**.

- 19.2 A Bid-Securing Declaration shall use the form included in Section IV, Bidding Forms if provided.
- 19.3 If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option:
- (a) an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company);
  - (b) an irrevocable letter of credit;
  - (c) a cashier's or certified check; or
  - (d) another security **specified in the BDS,**
- from a reputable source from an eligible country. If the unconditional guarantee is issued by a financial institution located outside SNV's Country, the issuing financial institution shall have a correspondent financial institution located in SNV's Country to make it enforceable. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by SNV prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.
- 19.4 If a bid security or Bid Securing Declaration is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive bid security or Bid-Securing Declaration shall be rejected by SNV as nonresponsive.
- 19.5 If a bid security is specified pursuant to ITB 19.1, the bid security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the Contract and furnishing the performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security pursuant to ITB 42.
- 19.6 The bid security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required performance security, and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security.
- 19.7 The bid security may be forfeited, or the Bid-Securing Declaration executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder; or
- (b) if the successful Bidder fails to:
  - (i) sign the Contract in accordance with ITB 41; or
  - (ii) furnish a performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB 42.

19.8 The bid security or the Bid-Securing Declaration of a JV shall be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the bid security or the Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.

19.9 If a bid security is **not required in the BDS** pursuant to ITB 19.1, and

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or
- (b) if the successful Bidder fails to sign the Contract in accordance with ITB 41; or furnish a performance security and if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with ITB 42; the procuring entity may, **if provided for in the BDS**, declare the Bidder ineligible to be awarded a contract by SNV for a period **as stated in the BDS**.

## **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 them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail. In an event of a discrepancy between hardcopy and electronic copy, the electronic copy 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 where

entries or amendments have been made shall be signed or initialed by the person signing the bid.

- 20.3 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 20.4 Any inter-lineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.

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

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

- 21.1 The Bidder shall enclose the original and all copies 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.
- 21.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder.
  - (b) be addressed to SNV in accordance with ITB 22.1.
  - (c) bear the specific identification of this bidding process specified in the BDS 1.1; and
  - (d) bear a warning not to open before the time and date for bid opening.
- 21.3 If all envelopes are not sealed and marked as required, SNV 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 SNV at the address and no later than the date and time specified in the BDS. **As specified in the BDS**, all bids shall also be **submitted electronically** to the subscribed email address in BDS. To ensure COVID – 19 compliance, all hard copy bids will only be deposited on **Mondays** to **Friday** when SNV office is opened for business.
- 22.2 SNV may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of SNV and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

#### **23. Late Bids**

- 23.1 SNV shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22.

Any bid received by SNV after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

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

24.1 A Bidder may withdraw, substitute, or modify its bid after it has been submitted by sending a written notice, 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 substitution or 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 withdrawals notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," "MODIFICATION;" and

(b) received by SNV 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.

24.3 No bid may be withdrawn, substituted, 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 Except in the cases specified in ITB 23 and 24, SNV shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline, at the date, time and place **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 22.1, 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 "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. 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 bids 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 and whether there is a modification; the total Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a bid security, if required; and any other details as SNV may consider appropriate. Only discounts and alternative bids read out at bid opening shall be considered for evaluation. The Letter of Bid and the Bill of Quantities are to be initialed by representatives of SNV attending bid opening in the manner **specified in the BDS**. SNV shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 23.1).
- 25.4 SNV 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, substitution, or modification; the Bid Price, per lot (contract) if applicable, including any discounts and alternative bids; 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 evaluation of bids and recommendation of contract award shall not be disclosed to Bidders or any other persons not officially concerned with the bidding process until information on Contract award is communicated to all Bidders in accordance with ITB 40.
- 26.2 Any attempt by a Bidder to influence SNV in the evaluation of the bids or Contract award decisions may result in the rejection of its bid.
- 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract award, if a Bidder wishes to contact SNV on any matter related to the bidding process, it shall do so in writing.
- 27. Clarification of Bids**
- 27.1 To assist in the examination, evaluation, and comparison of the bids, and qualification of the Bidders, SNV may, at its discretion, ask any Bidder for a clarification of its bid, given a reasonable time for a response. Any clarification submitted by a Bidder that is not in response to a request by SNV shall not be considered. SNV's request for clarification and the response shall be in writing. No

change, including any voluntary increase or decrease, in the prices or substance of the bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by SNV 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 SNV'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 Documents;
- (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
- (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Documents.

**29. Determination  
of  
Responsiveness**

29.1 SNV'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 Documents 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 Documents, SNV'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 SNV 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 VI, 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 Documents, it shall be rejected by SNV and

may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

**30. Nonmaterial  
Non  
conformities**

30.1 Provided that a bid is substantially responsive, SNV may waive any nonconformities in the Bid.

30.2 Provided that a bid is substantially responsive, SNV 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, SNV shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall 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 method specified in Section III, Evaluation and Qualification Criteria.

**31. Correction of  
Arithmetical  
Errors**

31.1 Provided that the bid is substantially responsive, SNV shall correct arithmetical errors on the following basis:

(a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of SNV 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 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.

**32. Conversion to  
Single  
Currency**

32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted into a single currency **as specified in the BDS.**



- 33. Margin of Preference**
- 33.1 **Unless otherwise specified in the BDS,** a margin of preference for domestic bidders<sup>1</sup> shall apply.
- 34. Sub contractors**
- 34.1 **Unless otherwise stated in the BDS,** SNV does not intend to execute any specific elements of the Works by sub-contractors selected in advance by SNV.
- 34.2 In case of Prequalification, the Bidder's Bid shall name the same specialized subcontractor as submitted in the prequalification application and approved by SNV.
- 34.3 In case of Postqualification, SNV may permit subcontracting for certain specialized works as indicated in Section III 4.2. When subcontracting is permitted by SNV, the specialized sub-contractor's experience shall be considered for evaluation. Section III describes the qualification criteria for sub-contractors.
- 34.4 Bidders may propose subcontracting up to the percentage of total value of contracts or the volume of works as **specified in the BDS.**
- 35. Evaluation of Bids**
- 35.1 SNV shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.
- 35.2 To evaluate a bid, SNV shall consider the following:
- (a) the bid price, excluding Provisional Sums and the provision, if any, for contingencies in the Summary Bill of Quantities, but including Daywork 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) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
  - (e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;

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<sup>1</sup> An individual firm is considered a domestic bidder for purposes of the margin of preference if it is registered in the country of the Employer, has more than 50 percent ownership by nationals of the country of the Employer, and if it does not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign contractors. JVs are considered as domestic bidders and eligible for domestic preference only if the individual member firms are registered in the country of the Employer or have more than 50 percent ownership by nationals of the country of the Employer, and the JV shall be registered in the country of the Borrower. The JV shall not subcontract more than 10 percent of the contract price, excluding provisional sums, to foreign firms. JVs between foreign and national firms will not be eligible for domestic preference.

(f) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria;

35.3 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.

35.4 If these Bidding Documents allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section III, Evaluation and Qualification Criteria.

35.5 If the bid, which results in the lowest Evaluated Bid Price, is seriously unbalanced or front loaded in the opinion of SNV, SNV may require the Bidder to produce detailed price analyses 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 analyses, taking into consideration the schedule of estimated Contract payments, SNV may require that the amount of the performance security be increased at the expense of the Bidder to a level sufficient to protect SNV against financial loss in the event of default of the successful Bidder under the Contract.

**36. Comparison of Bids**

36.1 SNV shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 35.2 to determine the lowest evaluated bid.

**37. Qualification of the Bidder**

37.1 SNV shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid either continues to meet (if prequalification applies) or meets (if postqualification applies) the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

37.2 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.

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

- 38. Employer's Right to Accept Any Bid, and to Reject Any or All Bids**      38.1 SNV 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**

- 39. Award Criteria**      39.1 Subject to ITB 38.1, SNV shall award the Contract to the Bidder who has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

- 40. Notification of Award**      40.1 Prior to the expiration of the period of bid validity, SNV shall notify the successful Bidder, in writing, that its bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that SNV will pay the Contractor in consideration of the execution and completion of the Works (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). At the same time, SNV shall also notify all other Bidders of the results of the bidding identifying the bid and lot (contract) 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 that was evaluated;
- (iv) name of bidders whose bids were rejected and the reasons for their rejection; and
- (v) name of the successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

40.2 Until a formal contract is prepared and executed, the "Letter of Acceptance" shall constitute a binding Contract.

40.3 SNV shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1, requests in writing the grounds on which its bid was not selected.

- 41. Signing of Contract**      41.1 Promptly upon notification, SNV shall send the successful Bidder the Contract Agreement.

**42. Performance Security**

- 41.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to SNV.
- 42.1 Within twenty-eight (28) days of the receipt of notification of award from SNV, the successful Bidder shall furnish the performance security and, if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security in accordance with the General Conditions of Contract, subject to ITB 35.5, using for that purpose the Performance Security and ESHS Performance Security Forms included, Contract Forms, or another form acceptable to SNV. If the performance security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to SNV. A foreign institution providing a bond shall have a correspondent financial institution located in Zambia.
- 42.2 Failure of the successful Bidder to submit the above-mentioned Performance Security and, if required in the BDS, the Environmental, Social, Health and Safety (ESHS) Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event SNV may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by SNV to be qualified to perform the Contract satisfactorily.

## Section II. Bid Data Sheet

<b>A. Introduction</b>	
<b>ITB 1.1</b>	Procuring entity is: <b>SNV Netherlands Development Organisation Zambia, 7 Nkanchibaya Road, Rhodes Park, Lusaka, Zambia</b>
<b>ITB 1.1</b>	Supervising Engineer: <b>Chambeshi Water Supply and Sanitation Company</b>
<b>ITB 1.1</b>	The name of the National Competitive Bid (NCB) is: <b>Construction of Faecal Sludge Treatment Plant (FSTP) in Mpulungu Town.</b> The identification number of the NCB is: <b>IFP/SNV/WASH-FSTP/2020/MPL/001</b> The number and identification of lots comprising this NCB is: <b>one (1)</b>
<b>ITB 2.1</b>	The funder is: <b>Netherlands Ministry of Foreign Affairs (DGIS)</b>
<b>ITB 2.1</b>	The name of the Project is: <b>Chambeshi – Lukanga Sanitation Project</b>
<b>ITB 4.1</b>	Maximum number of members in the JV shall be: <b>Two (02)</b>
<b>ITB 4.1(a)</b>	The individuals or firms in a JV or association shall be jointly and severally liable.
<b>ITB 4.4</b>	A list of debarred firms and individuals is available on ZPPA website: <a href="https://www.zppa.org.zm/list-of-debarred-firms">https://www.zppa.org.zm/list-of-debarred-firms</a>
<b>ITB 4.8</b>	This Bidding Process is not subject to prequalification.
<b>B. Bidding Documents</b>	
<b>ITB 7.1</b>	For <b>clarification purposes</b> only, SNV's address is: Attention: <b>Procurement and Contracts Officer</b> Street Address: <b>No. 7 Nkanchibaya Road, Rhodespark</b> City: <b>Lusaka</b> Country: <b>Zambia</b> Electronic mail address: <a href="mailto:zambiaprourement@snv.org">zambiaprourement@snv.org</a> ; <b>copies to:</b> <a href="mailto:mcarreiro@snv.org">mcarreiro@snv.org</a>
<b>ITB 7.1</b>	Webpage: <a href="http://www.snv.org">www.snv.org</a>
<b>ITB 7.4</b>	A Pre-Bid virtual meeting will take place at the following date, time and place: Date: 13 <sup>th</sup> November 2020 after site visit Time: <b>14:00hrs</b> Place: <b>Virtual</b> (Teams, Zoom, google meet, etc). Please write to <a href="mailto:zambiaprourement@snv.org">zambiaprourement@snv.org</a> for a pre-bid meeting link.  <b>A mandatory site visit organised by SNV, ChWSSC and partners shall be on 12<sup>th</sup> November, 2020</b>
<b>C. Preparation of Bids</b>	
<b>ITB 10.1</b>	The language of the bid is: <b>English</b>

	All correspondence exchange shall be in <b>English language</b> .
<b>ITB11.1 (h)</b>	The Bidder shall submit the following additional documents in its Bid: <ul style="list-style-type: none"> <li>a) Latest National Council for Construction Certificate, Category B Grades 3, 4 or 5.</li> <li>b) Valid Tax Clearance and VAT Registration Certificates from Zambia Revenue Authority</li> <li>c) Certificate of Incorporation or Registration <ul style="list-style-type: none"> <li>a) Zambia Public Procurement Authority (ZPPA) Certificate</li> <li>b) National Pensions Scheme Authority (NAPSA) Registration Certificate</li> <li>c) Workers Compansation Fund Control Board Registration Certificate</li> </ul> </li> <li>d) Engineering Registration Board (EngRZ) Certificate</li> <li>e) Audited Financial Statements for the past three (03No.) years.</li> <li>f) Declaration statement on litigation status</li> <li>g) Proof of work performed as Prime Contractor on Works of Similar Nature.</li> <li>h) Proof that proposed Engineering Site Staff are registered with the Engineering Institute of Zambia / Engineering Registration Board (EIZ/EngRB).</li> </ul>
<b>ITB 13.1</b>	Alternative bids <b>shall not be</b> permitted.
<b>ITB 13.2</b>	Alternative times for completion <b>will not be</b> permitted.
<b>ITB 13.4</b>	Alternative technical solutions shall be permitted for the following parts of the Works: <b>N/A</b> .
<b>ITB 14.5</b>	The prices quoted by the bidder shall be: <b>Fixed</b> .
<b>ITB 14.6</b>	The prices quoted by the Bidder " <b>shall not be</b> " subject to adjustment during the performance of the Contract.
<b>ITB 15.1</b>	The currency(ies) of the bid and the payment currency(ies) shall entirely be in <b>Zambian Kwacha (ZMW)</b>
<b>ITB 18.1</b>	The bid validity period shall be <b>90 days</b> .
<b>ITB 18.3 (a)</b>	The bid price shall be adjusted by the following factor reflecting local inflation during the period under consideration of the Bank of Zambia
<b>ITB 19.1</b>	A Bid Security shall be required. (yes) "If a bid security shall be required, the amount and currency of the bid security <b>shall be at least 5% of the Bid Sum, in Zambian Kwacha</b> "
<b>ITB 19.3 (d)</b>	Other types of acceptable securities: <b>None</b>
<b>ITB 20.1</b>	In addition to the original of the bid, the number of copies is: <b>Four (04)</b>
<b>ITB 20.2</b>	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: <b>Power of Attorney signed by a Legally authorized firm</b>
<b>D. Submission and Opening of Bids</b>	
<b>ITB 22.1</b>	For <b>hard copy bid submission purposes</b> only, SNV's address is:

	<p><b>SNV Country Director</b>  Attention: <b>The Procurement and Contracts Officer</b>  Street Address: <b>SNV Netherlands Development Organisation, Plot No 7 Nkanchibaya Road, Rhodes Park, Lusaka</b>  City: <b>Lusaka</b>  Country: <b>Zambia</b></p> <p><b>Electronic bids submission:</b>  <a href="mailto:zambiaprourement@snv.org">zambiaprourement@snv.org</a>;</p> <p><b>The deadline for bid submission is:</b>  Date: <b>01<sup>st</sup> December 2020</b>  Time: <b>10:00hrs</b> local time</p>
<b>ITB 25.1</b>	<p>The bid opening shall take place at:  Street Address: <b>7 Nkanchibaya Road, Rhodespark Lusaka</b>  Floor/Room number: <b>Reception Lounge (otherwise will be advised)</b>  City: <b>Lusaka</b>  Country: <b>Zambia</b>  Date: <b>01<sup>st</sup> December 2020</b>  Time: <b>10:00hrs local time</b></p>
<b>ITB 25.3</b>	<p>The Letter of Bid and Priced Bill of Quantities shall be initialed by representatives of SNV conducting Bid opening. Each Bid shall be initialed by all representatives and shall be numbered, any modification to the unit or total price shall be initialed by the Representative of SNV.</p>
<b>E. Evaluation, and Comparison of Bids</b>	
<b>ITB 32.1</b>	<p>The currency that shall be used for bid evaluation and comparison purposes is <b>Zambian Kwacha (Symbol shall be ZMW)</b></p>
<b>ITB 33.1</b>	<p>Domestic Preference <b>shall apply</b></p>
<b>ITB 34.1</b>	<p>At this time SNV does not intend to execute certain specific parts of the Works by sub-contractors selected in advance.</p>
<b>ITB 42.1</b>	<p>The successful Bidder shall be required to submit an Environmental, Social, Health and Safety (ESHS) and Performance Security (5%). <b>(Yes)</b></p>





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

This Section contains all the criteria that SNV shall use to evaluate bids and qualify Bidders. In accordance with ITB 35 and ITB 37, no other factors, methods or criteria shall be used. The Bidder shall provide all the information requested in the provided forms and as per ITB and BDS sections.

## **1. Domestic Preference**

A margin of preference of 7.5 % (seven and half percent) should be granted to domestic contractors, in accordance with, and subject to, the following provisions:

- (a) Contractors applying for such preference shall be asked to provide, as part of the data for qualification, such information, including details of ownership, as shall be required to determine whether, according to the classification established by Chambeshi Water and Sanitation Company and accepted by SNV, a particular contractor or group of contractors qualifies for a domestic preference. The bidding documents shall clearly indicate the preference and the method that will be followed in the evaluation and comparison of bids to give effect to such preference.
- (b) After bids have been received and reviewed by SNV and Project partners, responsive bids shall be classified into the following groups:
  - (i) Group A: bids offered by domestic contractors eligible for the preference.
  - (ii) Group B: bids offered by other contractors.

All evaluated bids in each group shall, as a first evaluation step, be compared to determine the lowest bid, and the lowest evaluated bids in each group shall be further compared with each other. If, as a result of this comparison, a bid from Group A is the lowest, it shall be selected for the award. If a bid from Group B is the lowest, as a second evaluation step, all bids from Group B shall then be further compared with the lowest evaluated bid from Group A. For the purpose of this further comparison only, an amount equal to 7.5% (seven and half percent) of the respective bid price corrected for arithmetical errors, including unconditional discounts but excluding provisional sums and the cost of day works, if any, shall be added to the evaluated price offered in each bid from Group B. If the bid from Group A is the lowest, it shall be selected for award. If not, the lowest evaluated bid from Group B based on the first evaluation step shall be selected.

## **2. Evaluation**

In addition to the criteria listed in ITB 35.2 (a) – (e) the following criteria shall apply:

- Assessment of adequacy of Technical Proposal with Requirements
- Alternative Completion Times Refer to ITB 13.2.
- Technical alternatives Refer to ITB 13.4.

## **3. Qualification**

### **3.1 Update of Information**

The Bidder shall continue to meet the criteria used at the time of prequalification.

### **3.2 Specialized Subcontractors**

Only the specialized subcontractors as approved by SNV will be considered. The specialized subcontractor shall continue to meet the criteria used at the time of prequalification. The

general experience and financial resources of the specialized sub-contractors shall not be added to those of the Bidder for purposes of qualification of the Bidder.

### 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:

- the following cash-flow requirement and
- the overall cash flow requirements for this contract and its current Works commitment.

### 3.4 Contractor's Representative and Key Personnel

The Bidder must demonstrate that it will have a suitably qualified Contractor's Representative and suitably qualified (and in adequate numbers) Key Personnel, as described in the table below.

The Bidder shall provide details of the Contractor's Representative and Key Personnel and such other Key Personnel that the Bidder considers appropriate to perform the Contract, together with their academic qualifications and work experience.

#### Contractor's Representative and Key Personnel

Item No.	Position/ specialization	Relevant academic qualifications	Minimum years of relevant work experience
1	Project/ Contract Manager	<ol style="list-style-type: none"> <li>1. Bachelor's degree in Civil Engineering/ Project Management</li> <li>2. Valid Practising License from Engineering Institution of Zambia / Engineering Registration Board (EIZ/EngRB)</li> </ol>	5 years
2	Site Engineer	<ol style="list-style-type: none"> <li>1. Bachelor's degree in Civil/ Water and Sanitation Engineering</li> <li>2. Valid Practising License from Engineering Institution of Zambia / Engineering Registration Board (EIZ/EngRB)</li> </ol>	5 years
<b>Suitable experts in the following specializations</b>			
3	Brick-Layer	<ol style="list-style-type: none"> <li>1. Advanced Trade Certificate</li> <li>2. Valid Practising License from Engineering Institution of Zambia / Engineering Registration Board (EIZ/EngRB)</li> </ol>	5 years
4	Site Foreman	<ol style="list-style-type: none"> <li>1. Diploma in Civil/ Water and Sanitation Engineering</li> <li>2. Valid Practising License from Engineering Institution of Zambia / Engineering Registration Board (EIZ/EngRB)</li> </ol>	5 years
5	Craftsmen	<ol style="list-style-type: none"> <li>1. Trade Certificate</li> <li>2. Valid Practising License from Engineering Institution of Zambia / Engineering Registration Board (EIZ/EngRB)</li> </ol>	5 years

### 3.5 Equipment

The Bidder must demonstrate that he has the key equipment listed hereafter:

Item No.	Plant/Equipment Type	Characteristics	Minimum Number required
1	Jack Hammer	Heavy duty	1
2	Plate Compactor	≤ 120 kg vibrating plate 45 to 60 cm	1
3	Pick	Heavy duty	5
4	Shovels	Standard	5
5	Wheel burrow	Standard	3
6	Light Truck (2 Ton)	≤6m <sup>3</sup>	1
7	Excavator	≤1m <sup>3</sup>	1
8	Compressor	≥300 CFM	1
9	Concrete mixer	≥1m <sup>3</sup> /h	1
10	Generator (5kVA)	≥5KVA	1
11	Welding Machine	≥350A rated output	1
12	Grinder	≥9" grinding wheel	1
13	Static Steel Wheel Roller	≥3 t	1
14	Loader	≥1.5 m <sup>3</sup> pocket capacity	1

Where necessary, the Bidder shall provide further details of proposed items of equipment.

## **Section IV. Bidding Forms**

### **Table of Forms**

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## Letter of Bid

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

NCB No.: \_\_\_\_\_

Invitation for Bid No.: \_\_\_\_\_

To: The Country Director,  
 SNV Netherlands Development Organisation  
 No. 7 Nkanchibaya Rd, Rhodespark  
 P. O Box 31771  
 Lusaka  
 Zambia.

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8)\_\_\_\_\_;
- (b) We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) We have not been suspended nor declared ineligible by ZPPA or SNV based on execution of a Bid Securing Declaration in Zambia in accordance with ITB 4.6.
- (d) We offer to execute in conformity with the Bidding Documents the following Works: \_\_\_\_\_;
- (e) The total price of our Bid, excluding any discounts offered in item (f) below is:  
 In case of only one lot, total price of the Bid \_\_\_\_\_  
 In case of multiple lots, total price of each lot \_\_\_\_\_  
 In case of multiple lots, total price of all lots (sum of all lots) \_\_\_\_\_;
- (f) The discounts offered and the methodology for their application are:
  - i) The discounts offered are: \_\_\_\_\_
  - ii) The exact method of calculations to determine the net price after application of discounts is shown below: \_\_\_\_\_;
- (g) Our bid shall be valid for a period of \_\_\_\_\_90\_\_\_\_\_ days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (h) If our bid is accepted, we commit to obtain a performance security *and an Environmental, Social, Health and Safety (ESHS) Performance Security* in accordance with the Bidding Documents;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
- (j) We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment

imposed by Government of the Republic of Zambia or a debarment imposed by the ZPPA, NCC or any other mandatory statutory body in Zambia. Further, we are not ineligible under SNV's policies, laws or official regulations or pursuant to a decision of the United Nations Security Council;

- (k) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;<sup>2</sup> *[Delete if not applicable]*
- (l) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract:

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate "none.")

- (m) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed; and
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (o) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption.

Name of the Bidder\* \_\_\_\_\_  
 Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* \_\_\_\_\_

Title of the person signing the Bid \_\_\_\_\_

Signature of the person named above \_\_\_\_\_

Date signed \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

\*\* : Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid

<sup>2</sup> Bidder to use as appropriate.

## Technical Proposal

### 1) Site Organization

#### **Guiding Notes:**

The Bidder shall provide general description of the arrangements which the Bidder intends to adopt for the execution of the works. The Bidder's arrangements should demonstrate their adequacy for satisfactory execution of the works in conformity with Tender document.

- a) Details on particular aspect of the Works and special locations
- b) Details of the arrangements which the Bidder proposes to implement for the construction of the Works, in sufficient detail to demonstrate their adequacy to achieve the requirements of the contract including completion within the Time for Completion stated in the Particular Conditions of Contract.
- c) Outline of the arrangements of the Bidder to manage coordination of site access.
- d) Outline of the arrangements and organisation of the Bidder to ensure compliance with the Works' requirements and specifications.
- e) Other information as the Bidder deems relevant or appropriate.

### 2) Method Statement

#### **Guiding Notes:**

The Bidder shall provide general description of the method statement which the Bidder intends to adopt for the execution of the works. The Bidder's method statement should demonstrate their adequacy for satisfactory execution of the works in conformity with Tender document.

- a) Details on the planned work sequences per work section.
- b) Details on handling groundwater, existing flows, stormwater etc.
- c) Details about the logistics and traffic management.
- d) Clear Statement whether precast slabs or instu slabs will be constructed plus details on construction method, quality control and required time for constructing the slabs within the contract package área/ per work section.
- e) Details on Operational Health and Safety for the construction team, in line with ESHS
- f) Details on disposal of solid waste derived from the construction works, in line with ESHS
- g) Details on equality of opportunity for employment and equality of remuneration for men/women (in similar positions)
- h) Details on child protection measures
- i) Other information as the Bidder deems relevant or appropriate.

### 3) Mobilization Schedule

#### **Guiding Notes:**

The Bidder shall provide information showing the order in which the Bidder intends to carry out the Works including but not limited to:

- a) Mobilisation of the Contractor's Plant and Equipment
- b) Details relating to the sources of key materials, estimated transportation distances for the materials
- c) Other information as the Bidder deems relevant or appropriate.



#### 4) Construction Schedule

##### **Guiding Notes:**

The Bidder shall provide information and/or schedule showing the order in which the Bidder intends to carry out the Works including the anticipated timing of each stage of the performance of the Contract including but not limited to:

- a) Details of the proposed Schedule for obtaining permits that may be necessary in order to commence the Works, incl. the preparation of required supporting documents/information
- b) Temporary and permanent Works to be constructed per work section
- c) All interface activities with existing utilities, facilities and Works and its operations
- d) Execution of each key construction activity including anticipated construction rates and estimated timing for commencement and completion.
- e) Details of the proposed timeline for the testing of material and Works, as well as of commissioning and handing over of the completed Works.
- f) Other information as the Bidder deems relevant or appropriate

#### 5) Equipment

The Bidder shall provide adequate information to demonstrate clearly that it has the capability to meet the requirements for the key equipment listed in Section III, Evaluation and Qualification Criteria. A separate Form shall be prepared for each item of equipment listed, or for alternative equipment proposed by the Bidder.

Item of equipment	
Equipment information	Name of manufacturer      Model and power rating
	Capacity      Year of manufacture
Current status	Current location
	Details of current commitments
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured

Omit the following information for equipment owned by the Bidder.

Owner	Name of owner	
	Address of owner	
	Telephone	Contact name and title
	Fax	Telex
Agreements	Details of rental / lease / manufacture agreements specific to the project	

#### 6) Key Personnel Schedule

#### 7) Any other

## **PART 2 – CONDITIONS OF CONTRACT AND CONTRACT FORMS**

### **Section V: General and Particular Contract Conditions**

## GENERAL CONDITIONS OF CONTRACT

The Contract comprises the construction, completion, field testing and training of operators in the Standard Operating Procedures of the Faecal Sludge Treatment Plant (FSTP) in Mpulungu Town, including all labour, materials, construction plants and temporary works required in the construction, completion and maintenance as specified in or reasonably to be inferred from the Contract Documents.

### 1. DEFINITIONS

In the Contract (as hereinafter defined) the following words and expressions shall have the meanings hereby assigned to them except where the context otherwise requires:

- a) "**SNV**" means SNV Zambia who has called for the Bid to build, Construct, erect or deliver the Work and who will employ the Contractor.
- b) "**Contractor**" means the Bidder or company whom the contract is awarded by SNV Zambia and includes the Contractor's personal representatives, successors and permitted assignees.
- c) "**SNV's Representative**" means any person or organisation appointed by SNV to perform the duties set forth in this contract especially in Clause 4, 5, 6 & 7 hereof.
- d) "**Supervising Engineer**" means Chambeshi Water Supply and Sanitation Company or its designated representatives.
- e) "**Client**" means Chambeshi Water and Sanitation Company
- f) "**Works**" means the Work to be executed in accordance with the Contract.
- g) "**Contract**" means the Conditions of Contract, Drawings, Bill of Quantities, Contract Agreement and Addendum, if any.
- h) "**Contract Price**" means the sum named in the Bid subject to such additions thereto or deductions therefrom as may be made under the provisions hereinafter contained.
- i) "**Constructional Plant**" means all appliances or things of whatsoever nature required in or about the execution, completion or maintenance of the Work or Temporary Works (as hereinafter defined) but does not include materials or other things intended to form or forming part of the permanent work.
- j) "**Temporary Works**" means all temporary works of every kind required in or about the execution, completion or maintenance of the Work.
- k) "**Drawings**" means the drawings referred to in the Specifications and any modification of such drawings approved in writing by SNV.
- l) "**Site**" means the lands and other places on, under, in or through which the Work are to be executed or carried out and any other lands or places provided by SNV for the purposes of the Contract together with such other places as may be specifically designated in the Contract as forming part of the Site.
- m) "**Approved**" means approved in writing including subsequent written confirmation of previous verbal approval and "approval" means approval in writing including as aforesaid.
- n) "**Specification**" means the Descriptions and specifications for materials and workmanship described in detail the Work to be executed, the quality of

- materials and workmanship and responsibilities of the Contractor that are not covered by the Conditions of Contract. It shall include Special Provisions also. Any modification thereof or addition thereto as may from time to time be furnished or approved in writing by the SNV.
- o) "**Special Provision**" (if any) is a part of specification which shall take precedence over the Conditions of Contract and Specification in so far as they are peculiar to and apply only to the Contract under consideration as set forth in the Special Provisions issued with the Contract Documents or indicated on the Drawings and not contained in the Conditions of Contract and Specifications.
  - p) "**Contract Item**" means an item of work specifically described and for which a price in unit or lump sum is provided. It includes the performance of all work and the furnishing of all labour, equipment and materials necessary to complete the Work as outlined in the Drawings, Specification and Special Provision.
  - q) "**Contract Time**" means the period (number of calendar days or months) shown in the Bid allowed for completion of the Work as set forth in the Contract.
  - r) "**Calendar Day**" means a period of twenty-four hours extending from midnight to midnight and shall include all days of the calendar without exception.
  - s) "**Calendar Month**" means the prevailing days of month in the calendar.
  - t) "**Cost**" when used in the Conditions of Contract shall be deemed to include overhead costs whether on or off the site, except where the contrary is expressly stated.

## 2. INTERPRETATION

- 2.1 In interpreting these Conditions of Contract, 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. SNV will provide instructions clarifying queries about the Conditions of Contract.
- 2.2 In case of discrepancy, defective description, error, omission or ambiguity between or in any of the Contract Documents, the following shall be the rule of interpretation.
  - 2.2.1 The drawing shall govern over the General Conditions.
  - 2.2.2 The Special Conditions shall govern over the General Conditions and the Drawings.
  - 2.2.3 The Specifications shall govern over the Special Conditions, the General Conditions, and Drawings.
  - 2.2.4 The Detailed Drawing shall govern over the General Drawing
  - 2.2.5 Figures written on the drawing shall govern over the scaled drawing themselves.

If the Contractor, either before commencing the Work or during the execution thereof, discovers discrepancies, errors or omission between or any Contract Documents or in case of any question concerning the meaning of the Contract, he

shall promptly notify SNV thereof in writing and SNV shall investigate the matter in seven (7) days from receipt of such notice and give appropriate orders on instruction to the Contractor. The Contractor shall not perform any affected portion of the Work after the discovery of the discrepancy, error, omission until receipt of the order or instruction from the SNV; otherwise the Contractor's Performance thereof shall be at his own risk and bear any additional cost resulting there-from.

### **3. DUTIES AND POWER OF SNV**

SNV shall periodically visit the site to monitor the progress and the quality of the Work and to determine, in general, if the Work is proceeding in accordance with the Contract document. SNV shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. During such visits and based on its observations, SNV shall condemn work, which fails to conform to the Contract document. SNV has authority to stop the work whenever such stoppage may be necessary, in its reasonable opinion, to ensure the proper execution of the Contract.

SNV shall be in the first instance be the interpreter of the Conditions of this Contract and the judge of its performance. SNV shall within a reasonable time make decisions on all claims of the Contractor and all other matters relating to the execution and progress of the Work or the interpretation of the Contract document.

SNV, as per the requirement, from time to time issue further drawings details and/or written instructions, written directions and written explanations regarding:

- a) Variations or modifications of the design.
- b) The quality or quantity of works or the additions, or omission or substitution of any work.
- c) Any discrepancy in or divergence between the drawings and/or specifications.
- d) The removal and/or re-execution of any works executed by the Contractor.
- e) The dismissal from the Work of any persons employed thereon by Contractor or Sub-contractor.
- f) The opening for inspection of any work covered up.
- g) The amending and making good of any defects under liability period.
- h) The removal from the site of any materials brought thereon by the Contractor and the substitution of other materials thereof.
- i) Assignment and sub-letting.
- j) Delay, acceleration and extension of time.
- k) The postponement or suspension of any work to be executed under the provision of this Contract.

### **4. DUTIES AND POWERS OF ChWSSC**

The duties of Chambeshi Water Supply and Sanitation Company (ChWSSC) are to supervise the works and to test and examine any materials to be used or workmanship employed in connection with the work. Work together with SNV and other local project partners to ensure harmonized quality delivery of works. Shall have authority to recommend to SNV to relieve the Contractor of any of his duties

or obligations under the Contract nor to order any work involving delay or any extra payment or to make any variation of or in the work.

#### **5. DUTIES AND POWERS OF SNV REPRESENTATIVES**

The duties of the SNV's Representative are to support ChWSSC in controlling and supervising the works, test and examine any materials to be used or workmanship employed in connection with the work. S/He shall have no authority to relieve the contractor of any of his duties or obligations neither under the contract nor to order any work involving delay or any extra payment or to make any variation of or in the work.

#### **6. DELEGATION OF POWER**

SNV may from time to time in writing delegate to the SNV's Representative any of the powers and authorities vested in SNV and shall furnish to the Contractor a copy of all such written delegation of powers and authorities. Any written instruction or approval given by the SNV's Representative to the Contractor within the terms of such delegation (but not otherwise) shall bind the Contractor as it has been given by SNV provided always as follows:

- a) Failure of the SNV's Representative to disapprove any work or materials shall not prejudice the power of SNV thereafter to disapprove such work or materials and to order the pulling down, removal or breaking up thereof.
- b) If the Contractor shall be dissatisfied by reason of any decision of the SNV's Representative he shall be entitled to refer the matter to SNV who shall thereupon confirmation, reverse or vary such decisions.

#### **7. CHECKING THE PROGRESS PAYMENT (MONTHLY) BILLS**

ChWSSC and SNV's representative shall jointly with the contractor's authorized representative, record measurements of work done in measurement book and check and certify (with comments) the progress payment (monthly) bills submitted by the Contractor and forward to SNV. ChWSSC shall sign and these bills with any necessary certificate and recommendations for payment.

#### **8. PERFORMANCE BOND**

The Contractor shall submit within fourteen (14No.) days of Contract Signing or the date of the Bid Acceptance whichever is earlier a Performance Bond for the due performance of the Contractor in a sum equal to 5 (five) percent of the total Contract Price. Validity of performance bond shall be up-to end of contract period. If the Contractor abandons the contracted works without written mutual agreement with SNV, the performance bond amount will be collected by SNV from the bank and will not be returned to the Contractor. In such case the Contractor will be disqualified for any future works with SNV. The performance bond shall be released after 30 days of the Contractor successfully completion of Works given in BOQ at the project site or if later, after acceptance of the Work by SNV.

#### **9. SUB-LETTING**

The Contractor shall not sub-let any part of the Work without the prior written consent from SNV and such consent if given shall not relieve the Contractor from any liabilities or obligations under the Contract and he shall be responsible for the acts, defaults and neglects of any sub-contractor, his agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor, his agents, servants or workmen.

**10. EXTENT OF CONTRACT**

The Contract comprises the construction, completion and maintenance of the Work and except in so far as the Contract otherwise provides the provision of all labour, materials, constructional plant, temporary works and everything whether of a temporary or permanent nature required in and for such construction, completion and maintenance so far as the necessity for providing the same as specified in or reasonable to be inferred from the Contract.

**11. LANGUAGE/S**

The language or languages in which the Contract documents shall be drawn up and executed shall be English designated as "Ruling Language".

**12. PROSECUTION OF WORK**

The execution of the Work under the Contract shall not commence until the Contractor has received a written Notice to Commence Work or order to that effect. The affectivity of the Contract Time shall begin seven (7) calendar days from the date of receipt of the written Notice to Commence Work stipulated in the Contract subject to such suspensions and extensions are provided for herein. If the Contractors operations are materially affected by changes in the plan or in the amount of work, or if he failed to comply with the approved construction schedule, the Contractor shall submit, when requested by SNV a revised construction schedule for the balance of the Work to be done.

No payment to the Contractor when he is delinquent in the submission of revised construction schedule. The progress of the Work shall be at a rate sufficient to complete the Contract in an acceptable manner within the period specified.

**13. FAMILIARITY WITH CONTRACT WORKS**

The Contractor shall be responsible for having taken steps necessary to satisfy himself as to the nature and location of the Contract Works; the type of equipment and facilities needed preparatory to and during the prosecution of the Contract Work, the General Conditions and other matters which in any way affect the Contract Works or the cost thereof. Failure by the Contractor to do so will not relieve him of the responsibility to successfully carry out the Contract Works without additional expense to SNV.

**14. CONTRACTOR'S RESPONSIBILITY FOR WORKS**

Until the final acceptance of the Work by the SNV, the Contractor shall have charge and care of the Work and shall take every precaution against damage or injury to

any part thereof by the action of the elements or from any other cause, whether arising from the execution or from nonexecution of work.

The Contractor shall rebuild, repair, restore and make good all damages or injuries to any portion of the Work occasioned by any or the above causes before final acceptance and shall bear the expenses thereof, except damages to the Work due to Force Majeure and without fault or negligence of the Contractor, including but not restricted by SNV to have been unavoidable or due to ordinary wear and tear.

Rain, windstorm, or other natural phenomena of normal intensity, based on the official weather reports for the particular season of the year in which the Work are being prosecuted, shall not be construed as Force Majeure or unforeseeable causes beyond the control of the Contractor.

#### **15. FORCE MAJEURE (SPECIAL RISK)**

If, during the term of the Contract, there shall occur a cause constituting force majeure herein defined as war whether declared or not, acts of God, laws or regulations, civil and industrial disturbance, act of the public enemy, explosions and any other similar cause of equivalent force not caused by or within the control of either SNV or the Contractor, and which neither party is able to overcome, then the Contractor, as soon as possible after the occurrence of any cause constituting force majeure, shall give notice and full particulars in writing to SNV of such force majeure if the Contractor is thereby rendered unable, wholly or in part, to perform his obligations and meet his responsibilities under the Contract. In such event:

- a) The obligations and responsibilities of the Contractor under this Contract shall be suspended to the extent of his inability to perform them and for as long as such inability continues.
- b) The term of the Contract shall be extended for a period equal to the period of suspension, taking into account, however, any special condition which may cause the time for completion of the Work to be different from the period of suspension.
- c) If the Contractor is rendered unable, wholly or in part, by reason of force majeure to performs his obligations and meet his responsibilities under the Contract for a period of sixty days, SNV shall, upon thirty days written notice, have the right to terminate the Contract. In case of such termination the Contractor shall be entitled for compensation from the SNV.

#### **16. SAFETY, PROTECTION AND SECURITY**

Except for "Force majeure (special risk)", the Contractor is solely responsible for the safety, protection, and security of his personnel, third parties, the public at large, the Work, equipment, installations and the like.

**Please refer "Technical Specification Document for more detail.**

#### **17. CUSTODY OF DRAWINGS**

The Drawings shall remain in the sole custody of SNV, but two copies thereof shall be furnished to the Contractor free of cost. The Contractor shall provide and make



at his own expense any further copies required by him. At the completion of the Contract the Contractor shall return to SNV all drawings provided under the Contract.

The Contractor shall give adequate notice in writing to SNV, ChWSSC or SNV's Representative of any further drawing or specification that may be required for the execution of the Work or otherwise under the Contract.

One copy of the drawings furnished to the Contractor as aforesaid shall be kept by the Contractor on the Site and the same shall at all reasonable times be made available for inspection and use by SNV and the SNV's Representative and by any other person authorized by SNV.

**18. FURTHER DRAWINGS AND INSTRUCTIONS**

SNV and ChWSSC shall have full power and authority to supply to the Contractor from time to time during the progress of the Work such further drawings and instructions as shall be necessary for the purpose of the proper and adequate execution and maintenance of the work and the Contractor shall carry out and be bound by the same.

**19. WORK TO BE TO THE SATISFACTION OF SNV AND ChWSSC**

Except in so far as it is legally or physically impossible, the Contractor shall execute, complete, train operators in operational procedures of the work in strict accordance with the Contract to the satisfaction of SNV and shall comply with and adhere strictly to the SNV's instructions and directions on any matter whether mentioned in the Contract or not, touching or concerning the Work. The Contractor shall take instructions and directions from ChWSSC and SNV or, subject to the limitations referred to in Clause 4 & 5 hereof from the SNV's Representative.

**20. CONTRACTOR'S SUPERINTENDENCE**

The Contractor shall give or provide all necessary superintendence during the execution of the Work and as long thereafter as SNV may consider necessary for the proper fulfilling of the Contractor's obligations under the Contract. The Contractor, or a competent and authorized agent or representative approved of in writing by the SNV, which approval may at any time be withdrawn, is to be constantly on the Work and shall give his whole time to the superintendence of the same. If such approval shall be withdrawn by the SNV, the Contractor shall, as soon as is practicable, having regard to the requirement of replacing him as hereinafter mentioned, after receiving written notice of such withdrawal, remove the agent from the Work and shall not thereafter employ him again on the Work in any capacity and shall replace him by another agent approved by the SNV. Such authorized agent or representative shall receive, on behalf of the Contractor, directions and instructions from SNV or, subject to the Limitations of Clause 4 & 5 hereof.

**21. CONTRACTOR'S EMPLOYEES**

The Contractor shall provide and employ on the site in connection with the execution and maintenance of the work.

- a) only such technical assistants as are skilled and experienced in their respective callings and such sub-agents, foremen and leading hands as are competent to give proper supervision to the Work they are required to supervise, and
- b) such skilled, semi-skilled and unskilled labour as is necessary for the proper and timely execution and maintenance of the work. For unskilled labour preference shall be given to the locals.

**22. REMOVAL OF CONTRACTOR'S EMPLOYEE**

SNV shall be at liberty to object and require the Contractor to remove forthwith from the Work any person employed by the Contractor in or about the execution or post construction support Worker who, in the opinion of the SNV, misconduct himself, or is incompetent or negligent in the proper performance of his duties, or whose employment is otherwise considered by SNV to be undesirable and such person shall not be again employed upon the Work without the written permission of SNV. Any person so removed from the Work shall be replaced as soon as possible by a competent substitute approved by SNV.

**23. INSPECTION**

SNV and his authorized representative shall always be allowed access to all parts of the work and shall be furnished with such information and assistance by the Contractor as maybe required in order to make a complete and detailed inspection. All materials or equipment furnished under provisions of the specification is subject to that inspection.

No work shall be covered up or put out of view without the approval of SNV or its representative. The contractor shall provide full assistance for SNV to examine and measure any work which is about to be covered up or put out of view before permanent work is place thereon.

The Contractor shall give notice to SNV whenever any such works are ready for examination and in case of concreting primary structure, the Contractor should submit a Concrete Pouring Request 3 days before the scheduled concreting. SNV shall, without reasonable delay will advise the Contractor in writing of his verification of the Work, unless it is unnecessary, the Work could go on as scheduled.

In addition to inspection by SNV, a technical monitoring team may be established with the participation of SNV and of Municipality representatives. The technical monitoring team may carry out site visits and may propose recommendations. Such recommendations are to be considered as non-binding, unless they are formalised by SNV directly to the Contractor. The Contractor shall always allow the

technical monitoring team to have access to all parts of the Work and shall furnish such information and assistance as required.

#### **24. CORRECTING DEFECTIVE WORKS**

Any defective work, whether it be the result of poor workmanship, use of defective materials, damage through carelessness or any other causes, which was found to exist prior to final acceptance or final payment of the Work, shall be removed immediately and replaced to conform with the Plan and Specifications or shall be remedied otherwise in a manner acceptable to ChWSSC and SNV.

This clause shall be in full force and effect although the defective work or the defective materials used are with the full knowledge of the SNV's representative. The fact that the SNV's representative may have previously overlooked such defective work shall not constitute an acceptance of such work or materials or any part of it.

Work done contrary to the instruction of the SNV, and work done beyond the lines indicated on the plans or as given, except as herein provided, or any extra work done without written authority will be considered as unauthorized and will not be paid for under the provisions of this Contract.

#### **25. VARIATIONS**

SNV may make any variation of the form, quality, or quantity of the Work that may in his opinion, is urgent and necessary, may order the Contractor to do the adjustment subject to the following considerations:

- a) Increase or decrease the quantity or any work included in the Contract.
- b) Delete any such work.
- c) Change the character or quality or kind of any such work.
- d) Change the levels, position and dimensions of any part of the Work.
- e) Execute additional works of any kind necessary for the completion of the Work.

Such variations shall not in any way vitiate or invalidate the Contract, but the value, if any, of all such variations which shall be considered in determining the amount of the Contract Price. No such variations shall be made by the Contractor without an order in writing from SNV. All extra work, additional or reduction in work done as ordered by SNV shall be valued at the rates and prices set up in the Bill of Quantities.

#### **26. VALUATION OF VARIATIONS**

SNV shall determine any amount to be added to or deducted from the Contract Price as a result of any variation, additional work, or work omitted by such Variation Order, on written order. All such variations and added or deleted work shall be valued at the rates set out in the Bill of Quantities and Schedule or Material Prices if, in the opinion of the SNV, such Schedule shall be applicable. If

the Schedule of Material Prices of Bills of Quantities does not contain rates applicable to the extra, additional, or omitted work, then a value shall be fixed by SNV which in his opinion is reasonable and proper.

The Contractor shall submit to SNV time extensions required, if any, for such additional works instructed for the review and acceptance or rejection of SNV within two weeks from the date of such instructions. The failure to do so may disqualify any such time extension claims.

In the case of any such omissions or deletions of the Tendered Works instructed by the SNV, SNV shall if in his opinion it be deemed fair to the Project, reduce the time of completion of the Project

#### **27. SUSPENSION OF WORK**

SNV shall have the right to suspend the Work wholly or partly by written order for such period as may be deemed necessary due to unfavourable weather conditions considered to be unsuitable for the prosecution of the Work. Or, for the failure on the part of the Contractor to correct bad conditions which are unsafe for workers or for the general public or to carry out valid orders, or due to the adjustment of the Plan to suit field conditions as found necessary during construction. The Contractor shall immediately comply with such order to suspend the Work wholly or partly as directed.

In case of total suspension of activities not due to any fault of the Contractor, the elapsed time between the effective order for suspending the Work and the order resume work shall be adjusted to the contract time given the Contractor as provided in the Contract.

#### **28. CONTRACTORS RIGHTS TO TERMINATE CONTRACT**

If the Contract Works shall be completely stopped for a continuous period of more than 3 months, through no act or fault of the Contractor or of anyone employed by him or as a result of the occurrence of "Force Majeure" as provided for in Clause 14 herein, then the Contractor, without prejudice to any other right or remedy, shall have the right to give SNV fifteen (15) calendar days written notice to stop the Contract Works or terminate the Contract.

If the Contract Works is not resumed within fifteen (15) calendar days after receipt of such notice by SNV due to no fault of the Contractor, the Contractor may terminate the Contract.

#### **29. SNV's RIGHT TO TERMINATE THE CONTRACT**

SNV at any time can terminate the Contract if, the Contractor does not show satisfactory progress in the Work and has already incurred a negative slippage of 15% or more regardless of whether previous warning and notices for him to improve performance has been issued.

**30. TAKE OVER BY SNV OF CONTRACT WORK**

SNV may take over the Work under contract giving 10 days' notice, if:

- a) the contractor fails to make the satisfactory work progress or to comply with orders of the SNV.
- b) the contractor does not actually have on the Project Site the minimum essential equipment necessary to prosecute the Work, in accordance with the approved construction schedule, before 25% of the original Contract Time expires.
- c) the contractor neglect or refuse to remove materials or to perform a new work that has been rejected being defective and unsuitable.
- d) the contractor becomes insolvent.
- e) the contractor is declared bankrupt.
- f) the contractor makes an assignment of all his property for the benefit of his creditors.
- g) the contractor is willfully violating any of the conditions, covenants and stipulations in the Contract.

SNV shall have the right, without necessity for judicial process or action, to rescind the Contract and suspend further payments to the Contractor or to take over the Work and complete it, either by administration or by contract with other qualified contractors in accordance with existing rules and regulations.

The Contractor upon receipt of notice to this effect shall vacate the project site and deliver the Work, or the part thereof specified in said notice peaceably to the SNV.

**31. PAYMENT FOR THE TERMINATED CONTRACT**

If the Contract is terminated, the Contractor shall be paid for all items of work executed and accomplished by him up to the date of termination at the rates and prices provided in the Contract, and in addition

- a) The cost partially accomplished items of work agreed upon by SNV and the Contractor
- b) The costs of materials or goods reasonably ordered for the Permanent or Temporary Works which have been delivered to the site.
- c) The reasonable cost of removing the Construction Plant and the return thereof of the Contractor's plant site.

For any payment due to the Contractor under the above conditions, SNV is entitled to be credited with any outstanding balance due to the Contractor for advances in respect to plant and materials and any sum previously paid by SNV to the Contractor in respect to the execution of the Work.

**32. FINAL INSPECTION**

When all the materials and equipment of the Contract Works have been furnished and installed in accordance with the Plans and Specifications as provided for and contemplated by the Contracts, SNV shall make the final inspection under the following procedures:

- a) Upon noticed from the Contractor of his completion of the entire Contract Works, SNV shall make a preliminary inspection.

- b) If, at such inspection, it was found out that the Contract Works have been found complete in accordance with the Plans and Specifications to the satisfaction of the SNV, final acceptance of the Work shall be recommended, and final completion certificate shall be issued.
- c) If, however, at the preliminary inspection, any work in whole or in part is found to be unsatisfactory, SNV shall give the Contractor the necessary instructions as to the correction thereof before final inspection. The Contractor shall immediately comply with and execute such instruction.

### **33. CLEARANCE OF THE SITE**

Upon completion of the Work, the Contractor shall immediately clear the site and remove all construction equipment, supplies, materials, rubbish and temporary works of every kind and leave the whole Sites and Works clean in workman like condition to the satisfaction of the SNV.

### **34. SCOPE OF PAYMENT**

The estimated quantities listed in the Bill of Quantities of the Contract Documents do not govern final payment. Payment to the Contractor will be made only for the actual quantities of the pay item of the Contract certified by SNV as performed by the Contractor in accordance with the Plans and Specifications.

Payments in accordance with the above paragraph shall be considered full compensation for furnishing all materials, labours, tools, equipment and for performing all works contemplated and embraced under the Contract.

For each component of the Work refer Technical Specification document payment clause (under Clause 3 Workmanship).

### **35. PROGRESS PAYMENT (RUNNING) BILLS**

The Contractor shall submit to SNV on the 1st week of every other month (2 months) a progress payment bill (running bill) showing, the Contract value of the materials onsite and permanent works executed up to the end of last month and the progressive value up to the end of last period. The period shall be defined as any period extending from the 1st day of the month to the last day of the next month.

In preparing the running bills the rates and price shall be those in the accepted priced Bill of Quantities in so far as such rates and prices are applicable. If the said priced Bill of Quantities shall not contain any rates or prices to some or any part of the Work executed, SNV shall fix a rate or prices.

The VAT invoice shall be issue from contractor mentioning the agreement number & duration of progression period with covering letter. SNV will do payment within 15 days after verification of the reported progress.

### **36. PAYMENTS OF PROGRESS PAYMENT (RUNNING) BILLS**

Within 21 days of the date of delivery to SNV in accordance with Clause 34 above of the Contractor's progress payment (monthly) bill, SNV shall certify and pay to

the Contractor (after deducting any previous payments on account) the amount which in the opinion of SNV on the basis of the bill is due to the Contractor less a Retention Deposit and deduction for advance if any.

The Contractor shall furnish to SNV all documents as he may require for the proper checking of the bills.

**37. PAYMENT WITHHELD**

SNV may withhold any payment deemed necessary to protect itself from loss due to:

- a) Un-remedied defective works.
- b) Claims filed or some evidence indicating probable filling of claims.
- c) Contractor's failure to make proper payments to the Sub-contractor, nominated Sub-contractor or for materials and labour.
- d) Any doubt of the Work to be completed within the stipulated period.

**38. PAYMENTS**

The progress payments shall be regarded as advance against final payments only and not payments for works done and completed, and shall not preclude the requiring of bad, unsound, imperfect or unskillful work to be removed, taken away and reconstructed or re-erected or be considered as an admission of the due performance of Contract, or any part thereof in any respect or the occurring of any claim, nor shall it determine or effect in any way the powers of SNV under these conditions or any of them as to the final settlement and adjustment of the accounts or otherwise, or in any other way vary or affect the Contract.

**39. RETENTION MONEY**

Five percent (5%) of the total contract amount will be kept as retention money. All the progress payments (monthly payments) are subject to retention of five percent (5%) as retention money. Such retention shall be based on the total amount due to the Contractor prior to any deduction. The retention money shall be released after the contractor successfully complete the maintenance period. (Clause 40)

**40. PAYMENT OF OBLIGATIONS**

The Contractor shall punctually pay all workmen employed by him on the Contract Works at such times and such rates as are provided by the existing laws. The Contractor shall also promptly pay all materials and equipment used by him for the Work. The Contractor shall have on hand every payday, in addition to the usual requirement of cash outlay for the Contract Works, a labour fund sufficient enough to cover up each fifteen-day payroll for the workers. Payment of wages and salaries and employees assigned in the project shall be witnessed by the duly authorized representative of SNV who shall certify to such payment. Failure of the Contractor to pay his labourers and employees within the period herein stated, SNV shall forthwith make such payment out of the funds of the project in which case the sum paid out plus a surcharge of one (1%) percent shall be deducted from any amount due or to become due to the Contractor without

prejudice to the right of SNV to terminate the Contract. Before any payment is made to the Contractor in excess of twenty (20%) percent of the Contract Price, the Contractor shall submit a written affidavit stating that he had paid all obligations due for labour, materials, rent of equipment and taxes in connection with the contract.

Before final payment is effected, another written sworn statement shall be required from the Contractor to the effect that the completed Permanent Works is being delivered to SNV free from any lien or other encumbrances or claim of whatever kind of description.

**41. DEFECTS LIABILITY PERIOD (GURANTEE FOR THE DEFECT)**

Defects liability period shall be of 12 (twelve) months, calculated from the date of issuance of completion certificate for the contracted works. Within the above prescribed period, the Contractor shall be liable for any failure or defect noted or appearing in the Work which is traceable to poor workmanship, use of poor-quality materials/equipment and non-compliance with the Plans and Specifications. The Contractor shall at his own expense make good such defect as directed by SNV. If the Contractor fails or refuses to do so, SNV shall carry out the corrective work and the expenses consequent there from or incidental there to shall be deducted by SNV from any monies due or which may become due to the Contractor. Defects and failures due to ordinary wear and causes other than the fault of the Contractor shall not be taken against the Contractor, and shall not be held liable, therefore.

**42. LIQUIDATED DAMAGES**

In case the Contractor refuses or fails to satisfactorily complete the Contract Works within the time specified herein, plus any time extension duly granted and is thereby default under the Contract, the Contractor shall be liable to SNV in the form of Liquidated damages and not by way of penalty, an amount equal to one tenth of one percent (0.10%) of the total Contract Price for each calendar day of delay, until such time as SNV may reasonably secure the completion of the Work. To be entitled to such liquidated damages, SNV does not have to prove that it has incurred actual damages and may deduct the amount from any monies due or which may become due the Contractor under the Contract.

**43. VERIFICATION BY THE SNV**

SNV is entitled, at its/his discretion, to conduct such audit as he may deem necessary for his own investigation in connection with the following:

- a) Extra work done on cost-plus percentage basis as provided for in Clause 25 Variations, of the General Conditions.
- b) Costs incurred in the event of takeover or termination of the Contract.
- c) Such other matters related thereto. The Contractor is obliged to keep accurate up to date accounting books and records concerning the above items.



**44. COMPLETION CERTIFICATE AND FINAL BILL**

On satisfactory completion of the contracted works, before the issue of the Completion Certificate, SNV shall order for final measurements to be taken and on this basis the Contractor shall submit the Final Bill, with extra items, abstract of cost and other details to support it, to SNV for final check and necessary certificate. The Final Bill shall be prepared as prescribed by the SNV. No claim shall be accepted from the Contractor after the receipt of the Final Bill.

The Contractor shall be paid the final amount less the advance payments made based on progress payments and the Retention Money after acceptance of the final bill and issuing of the completion certificate by the SNV.

**45. MAINTENANCE CERTIFICATE**

The Contract shall not be considered as completed until a Maintenance Certificate shall have been signed by SNV stating that the Work have been completed and maintained to his satisfaction.

The Maintenance Certificate shall be given by SNV 21 days after the expiry of the Period of Maintenance.

**46. ADVANCE FOR MOBILIZATION****a) Conditions of Advance Payment**

Mobilization advance up-to 25% of the contract sum may be granted upon written request against a bank guarantee acceptable and payable to SNV.

Such advance when made shall be in two equal instalments. First instalment shall be payable after the contractor signs the agreement, and the second instalment shall be payable after the construction materials and equipment is fully mobilized and SNV is fully satisfied that the first instalment has been fully utilized for contract work.

**b) Recovery of Advance**

The recovery of such advance payment (if made) shall be made at the rate of 40% from each progress payment (monthly) bill payable to the contractor and the entire advance payment shall be recovered by the time 80% of the contract amount has been paid to the Contractor.

**47. BRIBERY**

Any commission, advantage, gift, gratuity, reward or bribe given, promised or offered by or on behalf of the Contractor or his agent or servant or any other person on his or their behalf to any officer, servant, representative or agent of SNV or to any person on their behalf in relation to obtaining or to the execution of this or any other Contract with SNV shall in addition to any criminal liability which may be thereby incurred subject the Contractor to the cancellation of this and all other Contracts which he may have entered into with SNV and also to the payment of any loss or damage resulting from such cancellation which SNV shall be entitled to deduct from any monies due to the Contractor under this or any

other Contract or to recover the said amounts as debt due or partly the one and partly the other as SNV shall deem advisable.

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## Section VI. Contract Forms

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## Notification of Award

### LETTER OF ACCEPTANCE

*[letterhead paper of SNV]*

*[date]*

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

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

You are requested to furnish the Performance Security and an Environmental, Social, Health and Safety Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms and the ESHS Performance Security Form, included in Section IV, Contract Forms, of the Bidding Documents

Authorized Signature: \_\_\_\_\_  
Name and Title of Signatory: \_\_\_\_\_  
Name of Agency: \_\_\_\_\_

**Attachment: Contract Agreement**

## Contract Agreement

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, between \_\_\_\_\_ of \_\_\_\_\_ (hereinafter "SNV"), of the one part, and \_\_\_\_\_ of \_\_\_\_\_ (hereinafter "the Contractor"), of the other part:

WHEREAS SNV desires that the Works known as \_\_\_\_\_ should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of these Works and the remedying of any defects therein,

SNV and the Contractor agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - (i) the Letter of Acceptance
  - (ii) the Letter of Bid
  - (iii) the addenda Nos \_\_\_\_\_ (if any)
  - (iv) the Particular Conditions
  - (v) the General Conditions;
  - (vi) the Specification
  - (vii) the Drawings; and
  - (viii) the completed Schedules and any other documents forming part of the contract, including, but not limited to:
    - i. the ESHS Management Strategies and Implementation Plans; and
    - ii. Code of Conduct (ESHS).
3. In consideration of the payments to be made by SNV to the Contractor as specified in this Agreement, the Contractor hereby covenants with SNV to execute the Works and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. SNV hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of \_\_\_\_\_ on the day, month and year specified above.

Signed by \_\_\_\_\_ (for SNV)

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

## Performance Security

### Option 1: (Demand Guarantee)

\_\_\_\_\_

**Beneficiary:** \_\_\_\_\_

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

**PERFORMANCE GUARANTEE No.:** \_\_\_\_\_

**Guarantor:** \_\_\_\_\_

We have been informed that \_\_\_\_\_ (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ ( \_\_\_\_\_ ),<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the .... Day of ....., 2...<sup>2</sup>, and any demand for payment under it must be received by us at this office indicated above on or before that date.

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<sup>1</sup> The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency(cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.

<sup>2</sup> Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

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*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Option 2: Performance Bond

By this Bond \_\_\_\_\_ as Principal (hereinafter called "the Contractor") and \_\_\_\_\_] as Surety (hereinafter called "the Surety"), are held and firmly bound unto \_\_\_\_\_] as Obligee (hereinafter called "SNV") in the amount of \_\_\_\_\_, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Contractor has entered into a written Agreement with SNV dated the \_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, for \_\_\_\_\_ in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

NOW, THEREFORE, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Contractor shall be, and declared by SNV to be, in default under the Contract, SNV having performed SNV's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions; or
- (2) obtain a Bid or bids from qualified Bidders for submission to SNV for completing the Contract in accordance with its terms and conditions, and upon determination by SNV and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Employer and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Employer to Contractor under the Contract, less the amount properly paid by Employer to Contractor; or
- (3) pay SNV the amount required by Employer to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than SNV named herein or the heirs, executors, administrators, successors, and assigns of SNV.



In testimony whereof, the Contractor has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

## Environmental, Social, Health and Safety (ESHS) Performance Security

### ESHS Demand Guarantee

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and Address of Employer]*

**Date:** *\_ [Insert date of issue]*

**ESHS PERFORMANCE GUARANTEE No.:***[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that \_\_\_\_\_ (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ ( \_\_\_\_\_ ),<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its Environmental, Social, Health and/or Safety (ESHS) obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire, no later than the .... Day of ....., 2...<sup>2</sup>, and any demand for payment under it must be received by us at this office indicated above on or before that date.

---

<sup>1</sup> *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, less provisional sums, if any, and denominated either in the currency (cies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

<sup>2</sup> *Insert the date twenty-eight days after the expected completion date as described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months] [one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

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*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

## Advance Payment Security

### Demand Guarantee

\_\_\_\_\_

**Beneficiary:** \_\_\_\_\_

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

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

**Guarantor:** \_\_\_\_\_

We have been informed that \_\_\_\_\_ (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_ dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum \_\_\_\_\_ (\_\_\_\_\_) is to be made against an advance payment guarantee.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ ( )<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:

- (a) has used the advance payment for purposes other than the costs of mobilization in respect of the Works; or
- (b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number \_\_\_\_\_ at \_\_\_\_\_

\_\_\_\_\_

<sup>1</sup> *The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.*

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, less provisional sums, has been certified for payment, or on the \_\_\_ day of \_\_\_\_\_, 2\_\_\_\_,<sup>2</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

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[signature(s)]

**Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.**

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<sup>2</sup> *Insert the expected expiration date of the Time for Completion. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

## Retention Money Security

### Demand Guarantee

\_\_\_\_\_ [Guarantor letterhead or SWIFT identifier code]

**Beneficiary:** \_\_\_\_\_ [Insert name and Address of Employer]

**Date:** \_\_\_\_\_ [Insert date of issue]

**RETENTION MONEY GUARANTEE No.:** [Insert guarantee reference number]

**Guarantor:** [Insert name and address of place of issue, unless indicated in the letterhead]

We have been informed that \_\_\_\_\_ [insert name of Contractor, which in the case of a joint venture shall be the name of the joint venture] (hereinafter called "the Applicant") has entered into Contract No. \_\_\_\_\_ [insert reference number of the contract] dated \_\_\_\_\_ with the Beneficiary, for the execution of \_\_\_\_\_ [insert name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, the Beneficiary retains moneys up to the limit set forth in the Contract ("the Retention Money"), and that when the Taking-Over Certificate has been issued under the Contract and the first half of the Retention Money has been certified for payment, payment of [insert the second half of the Retention Money or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and, if required, the ESHS Performance Security] is to be made against a Retention Money guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ [insert amount in figures] (\_\_\_\_\_) [amount in words]<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without your needing to prove or show grounds for your demand or the sum specified therein.

<sup>1</sup> The Guarantor shall insert an amount representing the amount of the second half of the Retention Money or or if the amount guaranteed under the Performance Guarantee when the Taking-Over Certificate is issued is less than half of the Retention Money, the difference between half of the Retention Money and the amount guaranteed under the Performance Security and denominated either in the currency(ies) of the second half of the Retention Money as specified in the Contract, or in a freely convertible currency acceptable to the Beneficiary.

A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the second half of the Retention Money as referred to above has been credited to the Applicant on its account number \_\_\_\_\_ at \_\_\_\_\_ *[insert name and address of Applicant's bank]*.

This guarantee shall expire no later than the .... day of ....., 2...<sup>2</sup>, and any demand for payment under it must be received by us at the office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

\_\_\_\_\_  
*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product***

<sup>2</sup> *Insert the same expiry date as set forth in the performance security, representing the date twenty-eight days after the completion date described in GC Clause 11.9. The Employer should note that in the event of an extension of this date for completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

# **PART 3 – WORK REQUIREMENTS**

**APPENDIX 1 – BILL OF QUANTITIES**

**APPENDIX 2 – TECHNICAL SPECIFICATIONS**

**APPENDIX 3 - DRAWINGS**