



**DELTA STATE GOVERNMENT OF NIGERIA**

**STANDARD BIDDING DOCUMENT**

For the

# **Procurement of Small Works**

**First Edition 2015**

**Asaba Delta State**

## Notice to Users

1. This Standard Bidding Document (SBD) has been prepared by the Delta State Public Procurement Commission for the Procurement of Small Works and Related Services under National Competitive Bidding (NCB) when financed by the State Budget and to enable a Procuring Entity to select the lowest evaluated Bid.
2. This SBD in accordance with the Delta State Public Procurement Commission Law 2008 ( DSPPCL 2008), and the policies and procedures of the Regulations for Goods, Works, and Services relating to the eligibility of Bidders , and has been adapted to the needs of Delta State from national and internationally acceptable model formats. The SBD when properly completed will provide all the information that a Bidder needs in order to prepare and submit a Bid. This should provide a sound basis on which the Procuring Entity can fairly, transparently and accurately carry out a Bid evaluation process on the Bids submitted by Bidders.
3. For small, lower value works usually no pre-qualification process takes place before the Bid Document is issued. This document may be used for the Open Competitive method and for the Selective Tendering Method (“Shopping”), whereby Bidders are invited from a list of pre-selected Bidders. .
4. This SBD is for lump sum type Contracts priced against an activity schedule, listing the main activities. A Breakdown of Lump Sum Prices showing rates and prices for all items of the Works described in the Schedule of Works, including the delivery of materials to the Site is provided separately to give a basis for processing progress payments to the Contractor. Lump sum contracts are used for buildings, rehabilitation and other forms of construction where the Works are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions (for example, hidden foundation problems) is unlikely.
5. The following guidelines apply for the Procuring Entity when using this SBD:
  - (a) check the relevance of the provisions of the SBD against the requirements of the specific Works to be procured;
  - (b) tailor the document to the circumstances of the particular Project. The Procuring Entity should only introduce such adjustments in the Sections of the SBD which are specifically designed for this purpose: Section 2: the Special Instructions to Bidders (SIB); Section 4: the Special Conditions of Contract (SCC); Section 6: Schedule of Works, including Specifications, and Section 7: Drawings. Those details not filled by the Procuring Entity are the responsibility of the Bidder;
  - (c) but *never* change the Instructions to Bidders ; and
  - (d) provide the specific information needed in the italicized notes inside brackets and boxes. These notes should also specify where the Bidder should provide information. **Footnotes and boxes prepared for the use of the Procuring Entity are not part of the final SBD to be issued and should be removed from the final version;**

- (e) retain the other notes and boxes which specify that they are guidance to the Bidders .
  - (f) indicate the name of the project, the contract number, the name of the Procuring Entity and the date of issue on the cover of the document;
6. The Standard Bidding Document for the Procurement of Works has the following contents:

**IFT Invitation To Bid (ITB):** This is a repeat of the ITB which was published in the media and on the website of the Procuring Entity announcing the Bid and providing the essential information to prospective Bidders to invite them to participate. It is reprinted here for reference purposes only

**Section 1 Instructions to Bidders (ITB):** The ITB are standard instructions which guide the Bidders on how to prepare their bids. Standard instructions mean that they cannot be modified by the Procuring Entity. The ITB are based on the Procurement Law and the Regulations, from which the procedures for Bid submission, opening, evaluation and Contract award have been derived. They clarify the general evaluation criteria for the selection of the lowest evaluated responsive bidder and describe the basic qualifications of the Bidder needed for contract execution. This Section cannot be changed under any circumstances.

**Section 2 Special Instructions to Bidders (SIB).** In this Section the Procuring Entity supplements or adapts the relevant clauses of the ITB to the specific Bid information or project requirements where needed (name of the Procuring Entity, bid submission date, specific evaluation criteria, amount of Bid security (if applicable), bid validity period, alternative tenders permitted or not, fixed price contract or contract subject to price adjustment, works completion date, level of performance security and advance payment guarantee (if required) to be provided at contract signature, etc). Modifications to the Instructions to Bidders cannot change the Law or the Regulations.

**Section 3 General Conditions of Contract (GCC).** The GCC define the conditions of contract for Works in Nigeria and are also based on the Delta State Public Procurement Law and the Regulations. Like the ITB, the GCC cannot be modified or adapted by the Procuring Entity except through the Special Conditions of Contract.

**Section 4 Special Conditions of Contract (SCC).** The SCC supplement or adapt the relevant clauses of the GCC to the specific requirements of the contract (in particular with respect to the starting date, description of the Works, insurance requirements, percentage of advance payment, payment schedule, price adjustment formula, subcontracting provisions, relationship with the supervising engineer, percentage of retention money and/or performance guarantee (security), liquidated damages, bonus and penalty provisions, arbitration rules, etc.).

**Section 5 Standard Bid and Contract Forms** This Section provides the standard format for the **Bid Submission Sheet, (Form W-1), Tenderer Information Sheet (Form W-2) and Bidder Security (Form W-3)**, if required, to be submitted by the Bidder.

This Section also contains the form of the **Notification of Award (Form W-4)** and the **Contract Agreement (Form W-5)** which, when completed, incorporates any corrections or modifications to the accepted Bid relating to amendments permitted by the Instructions to Bidders, the General Conditions of Contract (GCC), and the Special Conditions of Contract (SCC).

The forms for **Performance Security (Form W-6)** and **Advance Payment Security (Form W-7)** (when required) are to be completed by the successful Bidder after Contract award and these forms must be submitted by the successful Tenderer as a condition of contract signature.

**Section 6**     **Schedule of Works including Specifications:** This Section provides the items and estimated quantities of Works and Related Services to be performed, as well as the detailed Technical Specifications that describe the Works to be procured and must be carefully prepared by a Procuring Entity for each object of procurement.

**Section 7**     **Drawings:** This Section contains any Drawings that supplement the Schedule of Works including Specifications for the Works and Related Services to be procured.

**GOVERNMENT OF DELTA STATE OF NIGERIA**

*[enter here the name of the procuring entity]*

**STANDARD BIDDING DOCUMENT  
FOR THE PROCUREMENT OF SMALL WORKS**

*[enter here the nature of the works and related services to be procured]*

**Name of Procuring Entity**  
**Invitation To Bidders No:**  
**Issued on:**

**Bidder Package No:**

# Table of Contents

<b>Invitation To Bid</b> .....	<b>1</b>
<b>Section 1: Instructions to Bidders</b> .....	<b>2</b>
<b>A.General</b> .....	<b>2</b>
1. Scope of the Bid .....	2
2. Source of Funds .....	2
3. Corrupt Fraudulent Collusive, Coercive or Obstructive Practices .....	2
4. Eligible Bidders .....	5
5. Site Visit .....	5
<b>B.Bid Document</b> .....	<b>5</b>
6. Sections of the Bidding Document .....	5
7. Clarification of the Bid Document .....	6
8. Amendment of the Bid Document: .....	6
<b>C.Bid Preparation</b> .....	<b>6</b>
9. Only one Bid.....	6
10. Preparation Costs of the Bid.....	6
11. Bid Language.....	6
12. Contents of the Bid.....	7
13. Alternative Bids.....	7
14. Prices and Currency of Bids .....	7
15. Validity and Security of Bids .....	8
16. Bid Format and Signing.....	8
<b>D.Bid Submission</b> .....	<b>8</b>
17. Bidder Sealing and Marking.....	8
18. Bid Submission Deadline .....	9
19. Late Bids.....	9
20. Bidder Modification, Substitution or Withdrawal.....	9
<b>E.Bid Opening and Evaluation</b> .....	<b>9</b>
21. Bid Opening.....	9
22. Confidentiality.....	10
23. Bidder Clarification .....	10
24. Bidder Contacting the Employer .....	10
25. Bid: Responsiveness.....	10
27. Evaluation and Comparison of Bids.....	11
28. No Negotiations.....	12
29. Employer’s Right to Accept or Reject any or all Bids .....	12
<b>F. Contract Award</b> .....	<b>12</b>
30. Award Criteria .....	12
31. Notification of Award.....	12
32. Performance Security .....	12
33. Contract Signing .....	12
34. Information to Bidders. ....	13
35. Bidder’s Right to Complain .....	13
28.....	13
<b>Section 2. Special Instructions to Bidders</b> .....	<b>14</b>
<b>A.General</b> .....	<b>14</b>
<b>B.Bid Document</b> .....	<b>16</b>
<b>C.Preparation of Bids</b> .....	<b>16</b>
<b>D.Submission of Bids</b> .....	<b>17</b>
<b>E.Bid Opening and Evaluation</b> .....	<b>17</b>
<b>F. Award of Contract</b> .....	<b>18</b>

<b>Section 3.</b>	<b>General Conditions of Contract .....</b>	<b>19</b>
1.	Definitions .....	19
2.	Interpretation & Documents forming the Contract.....	19
3.	Corrupt, Fraudulent, Collusive, Coercive or Obstructive Practices .....	20
4.	Governing Language and Law .....	21
5.	Engineer’s Decision.....	22
6.	Delegation.....	22
7.	Communications and Notices .....	22
8.	Sub- Contracting & Assigning .....	22
9.	Contractor’s Personnel .....	22
10.	Welfare of Laborers and wages .....	22
11.	Safety, Security and Protection of the Environment .....	22
12.	Access to the Site.....	23
13.	Documents, Information.....	23
14.	Property .....	23
15.	Insurance.....	23
16.	Possession of the Site .....	23
17.	Commencement of Works .....	23
18.	Completion of Works .....	23
19.	Programme of Works .....	24
20.	Early Warning .....	24
21.	Compens- ation Events.....	24
22.	Non-Scheduled Items of Works .....	24
24.	Payment Certificates.....	25
25.	Payments and Currency .....	25
26.	Retention.....	25
27.	Liquidated Damages .....	25
28.	Performance Security .....	26
29.	Cost of Repairs .....	26
30.	Completion .....	26
31.	Correction of Defects .....	26
32.	Taking Over.....	26
33.	Final Account .....	26
34.	Termination .....	26
24.	.....	26
35.	Payment upon Termination .....	27
36.	Release from Performance.....	27
37.	Settlement of Disputes.....	27
<b>Section 4.</b>	<b>Special Conditions of Contract.....</b>	<b>29</b>
<b>Section 5.</b>	<b>Bid and Contract Forms.....</b>	<b>32</b>
	<b>Bid Submission Sheet (Form W-1).....</b>	<b>33</b>
	<b>Bidder Information Sheet (Form W-2).....</b>	<b>34</b>
	<b>Bank Guarantee for Bid Security (Form W-3).....</b>	<b>36</b>
	<b>Notification of Award (Form W-4) .....</b>	<b>37</b>
	<b>Contract Agreement (Form W-5) .....</b>	<b>38</b>
	<b>Bank Guarantee for Performance Security (Form W-6).....</b>	<b>40</b>
	<b>Bank Guarantee for Advance Payment (Form W-7) .....</b>	<b>41</b>
<b>Section 6.</b>	<b>Schedule of Works including Technical Specifications .....</b>	<b>43</b>
<b>Section 7.</b>	<b>Drawings .....</b>	<b>44</b>
<b>Section 8.</b>	<b>Technical Specification.....</b>	<b>45</b>

*[Note: The Invitation To Bid that follows on the next page is the standard format as it should appear on the website. The procuring entity should ensure that a hard copy of the Invitation To Bid as actually published is included in the issued Bid Document.]*



# Invitation To Bid

# Section 1: Instructions to Bidders

## A. General

1. Scope of the Bid
  - 1.1 The Employer, as indicated in the Special Instructions to Bidders (SIB) issues this Bid Document for the procurement of Works and Related Services incidental thereto as specified in the SIB and as detailed in Section 6: Bill of Quantities. The name of the Bid and the number and identification of its constituent lot(s) are stated in the ITB.
  - 1.2 The successful Bidder will be required to complete the Works within the Time for Completion stated in the Special Conditions of Contract (SCC).
  - 1.3 Throughout this Bid Document:
    - (a) the term “in writing” means communicated in written form with proof of receipt;
    - (b) if the context so requires, singular means plural and vice versa; and
    - (c) “day” means calendar day.
2. Source of Funds
  - 2.1 The Employer has been allocated public funds as indicated in the SIB and intends to apply a portion of the funds to eligible payments under the Contract for which this Bid Document is issued
  - 2.2 For the purpose of this provision, “public funds” means any money appropriated to procuring entities under Government budget, or revenues generated by statutory bodies and corporations, or aid grants and credits put at the disposal of procuring entities by the development partners through the Government.
  - 2.3 Payments by the development partner, if so indicated in the SIB, will be made only at the request of the Government and upon approval by the development partner in accordance with the applicable Loan/Credit/Grant Agreement, and will be subject in all respects to the terms and conditions of that Agreement.
3. Corrupt Fraudulent Collusive, Coercive or Obstructive Practices
  - 3.1 The Government requires that Employers, as well as Bidders Contractors and Observers shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public funds

- 3.2 In pursuance of this requirement, the Employer shall
- (a) exclude the Bidder from participation in the procurement proceeding concerned or reject a proposal for award; and
  - (b) declare a Bidder ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public funds;
  - (c) Require bidders, suppliers and contractors to permit the relevant authorities to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors if it, at any time, determines that the Bidder has engaged in breaches of ethics rules, corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under public funds.
- 3.3 3.3. Should any breaches of ethics rules, corrupt, fraudulent, collusive or coercive practice of any kind come to the knowledge of the Employer, it shall, in the first place, allow the Bidder/Contractor to provide an explanation and shall, take actions as above only when a satisfactory explanation is not received.

- 3.4 The Government defines, for the purposes of this provision, the terms set forth below as follows:
- (a) “*corrupt practice*” means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a Procuring Entity or other governmental/private authority or individual a benefit or gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a Procuring Entity in connection with the procurement proceeding;
  - (b) “*fraudulent practice*” means a misrepresentation or omission of facts, in order to influence a procurement proceeding or the execution of a Contract to the detriment of the Employer;
  - (c) “*collusive practice*” means a scheme or arrangement among two and more Bidders with or without the knowledge of the Employer, including non-disclosure of subsidiary or similar relationships, (prior to or after Bid submission) designed to in anyway wrongfully obtain a contract, or establish Bid prices at artificial, non-competitive levels and or to deprive the Employer or another bidder of the benefits of free, open and genuine competition; and
  - (d) “*coercive practice*” means harming or threatening to harm, directly or indirectly, persons, their family members or their property to influence the procurement proceedings, or affect the execution of a Contract.
  - (e) “*breaches of ethics rules*” means and includes all breaches of codes of conduct for contractors, suppliers or persons involved in public procurement contained in the Delta State Public Procurement Commission Law 2008, the Public Procurement Regulations and Standard Bidding Document issued therefrom and any other applicable codes of conduct in force .
  - (f) “*obstructive practice*” which means
    - i. deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Commission and or relevant authorities’ enquiry or investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
    - ii. acts intended to materially impede the exercise of the Commission and or relevant authorities’ inspection and audit rights provided for under par. 3.2 (c) above.

- 3.5 The Bidder has responsibility to be aware of the provisions on fraud and corruption stated in GCC Clause 3 and GCC Sub-Clause 34.2(d).
- 3.6 The Government requires that the Employer's personnel have an equal obligation not to solicit, ask for and/or use coercive methods to obtain personal benefits in connection with the said proceedings.
4. Eligible Bidders
- 4.1 [Bidders of the categories specified in the SIB are eligible to participate in the Bid.]
- 4.2 A Government-owned enterprise in Nigeria may also participate in the Bid if it is legally and financially autonomous, operates under commercial law, and it is not a dependent on any government or procuring entity..
- 4.3 Procuring Entities must ensure that bidders participating in procurement where a Restricted Tendering method is used, shall provide cogent and satisfactory information to the Employer of their capability and adequacy of resources to carry out the Contract effectively as defined in the Bid Document.
- 4.4 Likewise when the Employer shall invite Bids using the Open Tendering Method (State Competitive Tendering or otherwise known as National Competitive Bidding), the Bidders shall provide satisfactory information to the Employer of their capability and adequacy of resources to carry out the Contract effectively and shall meet the following minimum qualifying criteria:
- (a) average annual volume of construction turnover as specified in the SIB during the period specified in the SIB;
- (b) experience as prime Contractor or subcontractor in the construction of at least the number of completed Contracts stated in the SIB of a nature and complexity similar to the proposed work over the period stated in the SIB; and
- (c) liquid assets/ availability of funds and/or credit facilities from its Bankers to successfully complete the Contract, as specified in the SIB.
5. Site Visit
- 5.1 The Bidder, at his own responsibility and risk, is encouraged to visit and examine the Site and obtain all information that may be necessary for preparing the Bid and entering into a Contract for performance of the Works. The costs of visiting the Site shall be at the Bidder's own expense.

## **B. Bid Document**

6. Sections of the Bidding Document
- 6.1 The sections comprising the Bidding Document are listed below and should be read in conjunction with any Amendment issued in accordance with ITB Clause 9:
- Section 1: Instructions to Bidders
  - Section 2: Special Instructions to Bidders
  - Section 3: General Conditions of Contract

- Section 4: Special Conditions of Contract
- Section 5: Bid and Contract Forms
- Section 6: Schedule of Works & Technical Specifications
- Section 7: Drawings

- |    |                                   |     |  |
|----|-----------------------------------|-----|--|
| 7. | Clarification of the Bid Document | 7.1 | A prospective Bidder requiring any clarification of the Bid Document shall contact the Employer in writing at the Employer’s address indicated in the SIB. The Employer will respond in writing to any request for clarification received no later than ten (10) calendar days prior to the deadline for submission of Bids. |
|    |                                   | 7.2 | The Employer shall forward copies of its response to all those who have purchased the Bid Document, including a description of the enquiry but without identifying its source.   |
|    |                                   | 7.3 | Should the Employer deem it necessary to amend the Bid Document as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and ITB Sub-Clause 18.3  |
| 8. | Amendment of the Bid Document:    | 8.1 | At any time prior to the deadline for submission of Bids, the Employer for any reason, on its own initiative or in response to a clarification request in writing from a bidder, having purchased the Bid Document, may amend the Bid Document by issuing an amendment.  |
|    |                                   | 8.2 | Any amendment issued shall become an integral part of the Bid Document and shall be communicated in writing to all those who have purchased the Bid Document.  |

### **C. Bid Preparation**

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| 9.  | Only one Bid                 | 9.1  | A Bidder shall submit only one (1) Bid for each lot. A Bidder who submits or participates in more than one (1) Bid will cause all the Bids with that Bidders participation to be rejected.                                   |
| 10. | Preparation Costs of the Bid | 10.1 | The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Employer shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Bidding process. |
| 11. | Bid Language                 | 11.1 | The Bid, as well as all correspondence and documents relating to the Bid shall be written in the English language.   |

12. Contents of the Bid
- 12.1 For the Restricted Tendering method using enlisted Contractors, the Bid prepared by the Bid shall comprise the following:
- (a) the Bid Submission Sheet (Form W-1);
  - (b) the completed Schedule of Works including Technical Specifications (Section 6);
  - (c) the Bid Security in accordance with ITB Sub-Clause 15.2;
  - (d) the completed Bidder Information Sheet (Form W-2);
  - (e) any other documents as specified in the SIB.
- 12.2 For the Open Competitive method ( State Competitive Bidding otherwise called National Competitive Bidding), the Bid prepared by the Bidder shall comprise the following:
- (a) the Bid Submission Sheet (Form W-1);
  - (b) the completed Schedule of Works (section 6);
  - (c) the Bid Security in accordance with ITB Sub-Clause 15.2;
  - (d) the documentary evidence in accordance with ITB Sub-Clause 4.4 establishing Bidder's eligibility to Bid, including the completed Bidder Information Sheet (Form W-2); and
  - (e) any other documents as specified in the SIB.
13. Alternative Bids
- 13.1 Alternative Bids shall not be considered.
14. Prices and Currency of Bids
- 14.1 All prices shall be quoted in Naira.
- 14.2 The Bid price shall take into account the cost of materials, transportation, labour, taxes, levies, overheads and profit. The Bid price shall be fixed for the duration of performance of the Contract and shall not be subject to any adjustment on any account. The Bid price shall be applicable for the whole works described in the Drawings, Specifications and Schedule of Works.
- 14.3 The Bidder shall fill in a lump sum price for each component of the Works identified in the Schedule of Works. In addition, the Bidder shall provide a breakdown of the lump sum price(s) showing rates and prices for all items of the Works described in the Schedule of Works.
- 14.4 The price to be quoted in the Bid Submission Sheet shall be the total price of the Bid, excluding any discounts offered. In the case of a discrepancy between the Bid Price quoted in figures and words the Bid Price quoted in words shall prevail.

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| 15. Validity and Security of Bids | <p>15.1 Bids shall remain valid for the period specified in the SIB after the date of Bid submission prescribed by the Employer, pursuant to ITB Clause 18. A Bid valid for a shorter period shall be rejected by the Employer as non-responsive.</p> <p>15.2 The Bid Security shall at the Bidder's option, be either in the form of a bank draft, pay order or an unconditional bank guarantee (Form W-3) issued by a commercial Bank of Nigeria.</p> <p>15.3 In exceptional circumstances, prior to the expiration of the Bid validity period, the Employer may solicit the Bidders consent to an extension of the period of validity of their Bids. The request and responses shall be made in writing. The Bid Security provided under ITB Sub-Clause 15.2 shall be suitably extended promptly.</p>   |
| 16. Bid Format and Signing        | <p>16.1 The Bidder shall prepare one (1) original of the documents comprising the Bid as described in ITB Clause 12 and clearly mark it "ORIGINAL." In addition, the Bidder shall prepare the number of copies of the Bid, as specified in the SIB and clearly mark each of them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.</p> <p>16.2 The original and each copy of the Bid shall be typed or written in indelible ink and shall be signed by the person duly authorized to sign on behalf of the Bidder. All pages of the original and of each copy of the Bid, except for un-amended printed literature, shall be numbered sequentially and signed or initialled by the person signing the Bid.</p> <p>16.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person(s) signing the Bid.</p> |

#### **D. Bid Submission**

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| 17. Bidder Sealing and Marking | <p>17.1 The Bidder shall enclose the original in one (1) envelope and all the copies of the Bid in another envelope, duly marking the envelopes as "ORIGINAL" and "COPY." These two (2) envelopes shall then be enclosed in one (1) single outer envelope.</p> <p>17.2 The inner and outer envelopes shall:</p> <ul style="list-style-type: none"> <li>(a) bear the name and address of the Bidder;</li> <li>(b) be addressed to the Employer at the address specified in the SIB;</li> <li>(c) bear the name of the Bid and the Bid Number as specified in the SIB, and;</li> <li>(d) bear a statement "DO NOT OPEN BEFORE....." the time and date for Bid opening as specified in the SIB.</li> </ul> |
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- 17.3 If all envelopes are not sealed and marked as required by ITB Sub-Clause 17.2, the Employer will assume no responsibility for the misplacement or premature opening of the Bid
18. Bid Submission Deadline
- 18.1 Bids must be received by the Employer at the address specified in the SIB not later than the date and time specified in the SIB.
- 18.2 Bids may be hand delivered, posted by registered mail or sent by courier. The Employer shall, on request, provide the Bidder with a receipt showing the date and time when its Bid was received.
- 18.3 The Employer may, at its discretion, extend the deadline for the submission of Bids by amending the Bid Document in accordance with ITB Clause 8, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall thereafter be subject to the new deadline as extended.
19. Late Bids
- 19.1 Any Bid received by the Employer after the deadline for submission of Bids in accordance with ITB Clause 18 shall be declared late, will be rejected, and returned unopened to the Bidder.
20. Bidder Modification, Substitution or Withdrawal
- 20.1 A Bidder may modify, substitute or withdraw its Bid after it has been submitted by sending a written notice before the deadline for submission of Bids.
- 20.2 Each Bidder's modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 16, 17, and 18 with the outer and inner envelopes additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL" as appropriate.

## **E. Bid Opening and Evaluation**

21. Bid Opening
- 21.1 The Employer shall open the Bids in public, including modifications or substitutions made pursuant to ITB Clause 20, at the time, on the date and only at the one place specified in the SIB. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 20 shall not be opened. Bidders or their authorised representatives shall be allowed to attend and witness the opening of Bids, and shall sign a register evidencing their attendance.
- 21.2 The name of the Bidder, modifications, substitutions or withdrawals, total amount of each Bid, number of corrections, discounts, and the presence or absence of requisite Bid Security, and such other documents or details as the Employer, at its discretion, may consider appropriate, shall be read out aloud and recorded. All pages of the original Bid, except for un-amended printed literature, will be initialled by a minimum of three (3) members of the Employer's Bid Opening Committee as set up by the Procurement Department/Unit.

- 21.3 Minutes of the Bid opening shall be made by the Employer and furnished to any Bidder upon receipt of a written request. The minutes shall include, as a minimum, the name of the Bidder and whether there has been a withdrawal, substitution or modification; the Bid Price including any discounts and the presence or absence of a Bid Security, if one was required.
- 21.4 Bids not opened and read out at the Bid opening shall not be considered, irrespective of the circumstances, and shall be returned unopened to the Bidder.
- 21.5 No Bid shall be rejected at the Bid opening, except for late Bids , which shall be returned unopened to the Bidders pursuant to ITB Clause 19
22. Confidentiality 22.1 After the opening of Bids, information relating to the examination, clarification, and evaluation of Bids and recommendations for award shall not be disclosed to Bidders or other persons not officially concerned with the evaluation process until after the award of the Contract is announced.
23. Bidder Clarification 23.1 The Employer may ask Bidders for clarification of their Bids in order to facilitate the examination and evaluation of Bids. The request for clarification and the response shall be in writing, and any changes in the prices or substance of the Bid shall not be sought, offered or permitted, except to confirm the correction of arithmetical errors discovered by the Employer in the evaluation of the Bids, in accordance with ITB Clause 27.
24. Bidder Contacting the Employer 24.1 Following the opening of Bids and until the Contract is signed no Bidder shall make any unsolicited communication to the Employer except for a complaint or try in any way to influence the Employer's examination and evaluation of Bids.
- 24.2 Any effort by a Bidder to influence the Employer in its decisions on the examination, evaluation, comparison and post-qualification of the Bid or Contract award may result in the rejection of its Bid.
- 24.3 Notwithstanding ITB Sub Clause 24.1, from the time of Bid opening to the time of Contract award, if any Bidder wishes to contact the Employer on any matter related to the bidding process, it should do so in writing.
25. Bid: Responsiveness 25.1 The Employer's determination of a Bid's responsiveness is to be based on the contents of the Bid itself including any required documents without recourse to extrinsic evidence.

- 25.2 A substantially responsive Bid is one that conforms in all respects to the requirements of the Bid Document without material deviation, reservation or omission. A material deviation, reservation or omission is one that:
- (a) affects in any substantial way the scope, quality, or performance of the Works specified in the Contract; or
  - (b) limits in any substantial way, or is inconsistent with the Bid Document, the Employer's rights or the Bidder's obligations under the Contract; or
  - (c) if rectified would unfairly affect the competitive position of other Bidders presenting substantially responsive Bids.
- 25.3 If a Bid is not valid and or substantially responsive to the Bid Document it shall be rejected by the Employer and shall not subsequently be made responsive by the Bidder by correction of the material deviation, reservation or omission.
- 25.4 There shall be no requirement as to the minimum number of responsive Bids.
26. Minor Deviations
- 26.1 The Employer may regard a Bid as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and other requirement set forth in the Bid Document or if it contains errors or oversights that are capable of being corrected without affecting the substance of the Bid.
27. Evaluation and Comparison of Bids
- 27.1 The Employer shall evaluate and compare only those bids determined to be valid and also substantially responsive to the requirements of the Bid Document. Substantially responsive bids are those which fulfil the requirements of ITB Clauses 4 and 12.
- 27.2 The evaluation will take into account the corrected Bid Price and discounts (if any).
- 27.3 The Employer during evaluation will check substantially responsive Bids for any arithmetical errors including in the computation of the breakdown of lump sum price(s). Where there is a discrepancy between the amounts in figures and words, the amount in words will govern. If a Bidder refuses to accept the correction, its Bid shall be rejected. The Employer shall correct arithmetical errors on the following basis :
- (a) if there is a discrepancy between the unit price and the line item total, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Employer there is an obvious misplacement of the decimal point in the unit price, in which case the total price, as quoted, shall govern and the unit price shall be corrected ; and
  - (b) where there is a discrepancy between the amounts in figures and words, the amount in words will govern.

28. No Negotiations 28.1 No Negotiations may be held with the lowest or any other Bidder. A bidder shall not be required, as a condition for award, to undertake responsibilities not stipulated in the Bid document, to change its price or otherwise modify its bid.
29. Employer's Right to Accept or Reject any or all Bids 29.1 The Employer reserves the right to accept any bid meeting its requirements as set forth. The Employer may also annul the Bid proceedings, or reject all bids, at any time prior to Contract award, without thereby incurring any liability to Bidders or a responsibility to explain why it rejected all bids..

## **F. Contract Award**

30. Award Criteria 30.1 The Employer shall award the Contract to the Bidder whose offer is substantially responsive to the Bid Document and that has been determined to be the lowest evaluated Bid, provided that the Bidder is determined to be qualified to perform the Contract satisfactorily.
31. Notification of Award 31.1 Prior to the expiration of the period of Bid validity, the Employer shall notify the successful Bidder, in writing that its Bid has been accepted.
- 31.2 Until a formal contract is prepared and executed, the Notification of Award shall constitute a binding Contract, subject to requirement for a Certificate of No Objection.
32. Performance Security 32.1 Within fourteen (14) days of the receipt of the Notification of Award from the Employer, the successful Bidder shall furnish the Performance Security, if required, in the amount specified in the SIB using for that purpose the Performance Security Form (Form W-6) furnished in Section 5: Bid and Contract Forms.
33. Contract Signing 33.1 At the same time as the employer issues the notification of award, the employer shall send the contract agreement and all documents forming the contract to the successful bidder.
- 33.2 Within twenty-one (21) days of receipt of the contract agreement, the successful bidder shall sign, date and return it to the employer.
- 33.3 Failure of the successful Bidder to submit the Performance Security, pursuant to ITB Sub-Clause 32.1, or sign the Contract, pursuant to ITB Sub-Clause 33.2, shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event, the Employer may award the Contract to the next lowest evaluated responsive Bidder at their quoted price (corrected for arithmetical errors), who is assessed by the Employer to be qualified to perform the Contract satisfactorily.
- 33.4 Immediately upon receipt of the signed Contract Agreement and Performance Security from the successful Bidder, the Employer shall discharge and return the successful Bidder's Security.

34. Information to Bidders

- 34.1 Upon the successful Bidder's furnishing of the Performance Security pursuant to ITB Clause 32, and signing of the Contract pursuant to ITB Clause 33, the Employer shall also notify all other Bidders that their Bids have been unsuccessful.
- 34.2 The Employer shall promptly respond in writing to any unsuccessful Bidder who, after notification in accordance with ITB Sub-Clause xx.1, requests in writing for the Employer to communicate the grounds on which its Bid was not selected.

35. Bidder's Right to Complain

- 35.1 Any Bidder has the right to complain in accordance with section 56 of the Delta State Public Procurement Commission Law, 2008, if there has been an infringement of the law and the rules as in the Delta State Public Procurement Regulations and Standard Bidding Documents issued therefrom whether or not the bidder has suffered a damage or loss .
- 35.2 The complaint shall firstly be processed through an administrative review following the procedures set out in the Regulations. The place and address for the first step in the submission of complaints to the Administrative Authority is provided in the SIB.
- 35.3 If not satisfied with the outcome of the administrative review, the Bidder may complain to the Delta State Public Procurement Commission (DSPPC) pursuant to the Public Procurement Regulations and Section 56 of the Delta State Public Procurement Commission Law 2008..
- 35.4 If not satisfied with the decision of the Commission a Bidder may seek judicial review in the Delta State High Court.

## Section 2. Special Instructions to Bidders

*Instructions for completing the Special Instructions to Bidders are provided, as needed, in the notes in italics mentioned for the relevant ITB Clauses*

ITB Clause	Amendment of, and Supplements to, Clauses in the Instructions to Bidders
<b>A. General</b>	
<b>ITB 1.1</b>	<p>The Employer is <i>[state name of Employer]</i> represented by <i>[state name of representative]</i>.</p> <p><i>[the Employer is the unit or subdivision of the Procuring Entity which will issue the Notification of Award and sign the Contract Agreement with the successful Bidder. Frequently the Employer is represented by a Chief Engineer, Superintending Engineer, Executive Engineer, project director or other assigned person. See Regulations for definition of a Procuring Entity.]</i></p> <p>The Name of the Bidder is</p> <p>The number and identification of lots comprising the Bid lots are:</p> <p><i>[if there is more than one lot, individual lots are to be identified in conformity with Section 6: Schedule of Works].</i></p>
<b>ITB 2.1</b>	The source of public funds is <i>[state source DTSG, or other source of funds]</i>
<b>ITB 2.3</b>	The name of the Development Partner is <i>[state name of Development Partner or "None" as applicable]</i> .
<b>ITB 4.1</b>	<p><i>[Choose option A or B, whichever is applicable, and delete the other option].</i></p> <p>Option A: Restricted Tendering method :</p> <p>Option B: Open Competitive method</p> <p>All Bidders regardless of whether enlisted or not enlisted with the Employer may submit Bids providing they otherwise qualify.</p>
<b>ITB 4.4</b>	<i>[The following qualification criteria are applicable for use with the Open Competitive method and or Restricted Method.</i>







<b>ITB 15.2</b>	<p>A Bid Security in the amount of Naira [<i>insert amount</i>] will be required, OR A Bid Security will not be required: <i>[delete whichever is not required]</i> . <i>The Bid Security amount should be expressed as a fixed amount (around 2% of the estimated contract value) for each lot. OR</i> <i>A Bid Security shall not be required (this may be considered in the case of small works)]</i></p>
<b>ITB 16.1</b>	<p>In addition to the original of the Bid, [ ] copies shall be submitted. <i>[usually only two copies are needed, ask for more only if they are essential].</i></p>
<b>D. Submission of Bids</b>	
<b>ITB 17.2</b>	<p>The inner and outer envelopes shall bear the following additional identification marks: <i>[indicate any markings that are required on inner and outer envelopes]</i></p>
<b>ITB 17.2</b>	<p>For <b><u>Bid submission purposes</u></b> only, the Employer’s address is: Attention: Address: The deadline for the submission of Bids is: Time &amp; Date</p>
<b>E. Bid Opening and Evaluation</b>	
<b>ITB 21.1</b>	<p>The Bid opening shall take place at: Address: Time &amp; Date: <i>[Bids shall be opened immediately after close of Bid submissions ideally in the same venue, but in no case more than twenty four hours, after the deadline for submission of Bids.]</i></p>

**F. Award of Contract**

<b>ITB 32.1</b>	<p>The amount of Performance Security shall be [ 10 ] percent of the Contract Price.</p> <p><i>[Ideally performance guarantee could be less than 10 Percent, but the State Law requires a minimum of ten percent of the value of the contract, it is advised that it should not be more, except in circumstances as required by the law where an advance payment higher than that value is being paid, in which case the value of the performance guarantee should be the higher of the two sums. It is advisable that retention monies if applied when the performance guarantee is for such higher amounts above ten percent of contract value should be minimal. Higher percentages will require a more costly financing arrangement between the Bidder and its Bank or financial provider, and will only increase the cost of the Bids]</i></p> <p><i>[The Performance Security shall be issued by a reputable bank or financial institution selected by the Bidder and acceptable to the Employer. A Bidder may request the Employer in advance if a particular issuing entity of a security is acceptable. Guarantees issued by foreign banks or institutions will not be acceptable for small works.]</i></p>
<b>ITB 34.2</b>	<p>The name and address of the office where complaints to the Procuring Entity are to be submitted:</p>

## Section 3. General Conditions of Contract

1. Definitions
  - 1.1 The following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined terms:
    - (a) **Completion Certificate** means the Certificate issued by the Engineer as evidence that the Contractor has executed the Works in all respects as per drawing, specifications, and Conditions of Contract.
    - (b) The **Completion Date** is the date of completion of the Works as certified by the Engineer, in accordance with GCC Clause 18.
    - (c) **Contract** means the Agreement entered into between the Employer and the Contractor to execute, complete and maintain the Works.
    - (d) **Contractor** means the person or corporate body whose Bid to carry out the Works has been accepted by the Employer and is named as such in the SCC.
    - (e) **Contract Price** means the price payable to the Contractor as specified in the Contract Agreement.
    - (f) The **Contractor's Bid** is the completed Bid Document including the priced offer submitted by the Contractor to the Employer.
    - (g) **Days** means calendar days.
    - (h) A **Defect** is any part of the Works not completed in accordance with the Contract.
    - (i) The **Employer** is the party named in the SCC who employs the Contractor to carry out the Works and may be referred to as the Procuring Entity.
    - (j) The **Engineer** is the person named in the SCC, who is responsible for supervising the execution of the works and administering the Contract.
    - (k) The **Intended Completion Date** is the date specified in the SCC on which the Contractor shall complete the Works and may be revised if extension of time or an acceleration order is issued by the Engineer.
    - (l) The **Site** is the area defined as such in the SCC.
    - (m) The **Works** are what the Contract requires the Contractor to construct, install, and hand over to the Employer, as defined in the SCC.
2. Interpretation & Documents forming the Contract
  - 2.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construction of the Contract. Words have their normal meaning under the language of the Contract unless specifically defined.

- 2.2 The following documents forming the Contract shall be interpreted in the following order of priority:
- (a) the signed Contract Agreement.
  - (b) the letter of Notification of Award.
  - (c) the completed Bid Submission Sheet as submitted by the Bidder.
  - (d) the priced Schedule of Works as submitted by the Bidder.
  - (e) the Technical Specifications
  - (f) the Drawings,
  - (g) any other document listed in the SCC as forming part of the Contract.
3. Corrupt, Fraudulent, Collusive, Coercive or Obstructive Practices
- 3.1 The Government requires that Employers, as well as Contractors shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public funds.
- 3.2 In pursuance of this requirement, the Employer shall
- (a) exclude the Contractor from participation in the procurement proceedings concerned or reject a proposal for award; and
  - (b) declare a Contractor ineligible, either indefinitely or for a stated period of time(number of years), from participation in procurement proceedings under public fund;
  - (c) if it at any time determines that the Contractor has engaged in a misconduct, breach of ethics rules, fragrant breach of the law and rules or in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under public fund.
- 3.3 Should any misconduct, breach of ethics rules or fragrant breach of the law and rules, corrupt, fraudulent, collusive or coercive practice of any kind referred to in GCC Sub-Clause 3.4 come to the knowledge of the Employer, it shall, in the first place, allow the Contractor to provide an explanation and shall, take actions as stated in GCC Sub-Clause 3.2 only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Contractor concerned. Any communications between the Contractor and the Employer related to matters of alleged misconduct, breach of ethics rules, fragrant breach of the law, corrupt, fraudulent, collusive or coercive practices shall be in writing.

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

- (a) “corrupt practice” means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a Procuring Entity or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a Procuring Entity in connection with the procurement proceeding;
- (b) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement proceedings or the execution of a Contract to the detriment of the Employer;
- (c) “collusive practice” means a scheme or arrangement among two or more Bidders with or without the knowledge of the Employer, including non-disclosure of subsidiary or similar relationships (prior to or after proposal submission) designed to in any way wrongfully obtain a contract or establish Bid prices at artificial, non-competitive levels and or to deprive the Employer or other bidders of the benefits of free, open and genuine competition; and
- (d) “coercive practice” means harming or threatening to harm, directly or indirectly, persons, their family members or their property in order to influence the procurement proceedings, or affect the execution of a Contract.
- (e) “breaches of ethics rules” means and includes all breaches of codes of conduct for contractors, suppliers or persons involved in public procurement contained in the Delta State Public Procurement Commission Law 2008, the Public Procurement Regulations and Standard Bidding Document issued therefrom and any other applicable codes of conduct in force
- (f) obstructive practice which means
  - i. deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede the Commission or relevant authorities’ enquiry or investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - ii. acts intended to materially impede the exercise of the Commission’s and or relevant authorities’ inspection and audit rights provided for under par. 3.2 (c) above.

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

4. Governing Language and Law

4.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Contractor and the Employer, shall be written in English.

4.2 The Contract shall be governed by and interpreted in accordance with the laws of Delta State and the Federal Republic of Nigeria.

5. Engineer's Decision 5.1 Except where otherwise specifically stated in the SCC, the Engineer will decide Contractual matters between the Employer and the Contractor in the role as representative of the Employer.
6. Delegation 6.1 The Engineer may delegate any of his duties and responsibilities to his representative, after notifying the Contractor, and may cancel any delegation, without retroactivity, after notifying the Contractor.
7. Communications and Notices 7.1 Communications between Parties pursuant to the Contract shall be in writing to the address specified in the SCC. A notice shall be effective when delivered or on the notice's effective date, whichever is later.
8. Sub-Contracting & Assigning 8.1 The Contractor shall not be permitted to subcontract any part of the Works, nor shall the Contractor be allowed to assign the Contract in whole or in part.
9. Contractor's Personnel 9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the functions stated in the Schedule, or other personnel approved by the Engineer.
- 9.2 If the Engineer asks the Contractor to remove a person who is a member of the Contractor's staff or work force from the Site, he shall state the reasons, and the Contractor shall ensure that the person leaves the Site within three (3) days and has no further connection with the work in the Contract.
10. Welfare of Laborers and wages 10.1 The Contractor shall provide proper accommodation to his labourers and arrange proper water supply, conservancy and sanitation arrangements at the site in accordance with relevant regulations, rules and orders of the government.
- 10.2 The Contractor shall pay reasonable wages to his labourers, and pay them in time. [In the event of delay in payment the Employer may effect payments to the labourers and recover the cost from the Contractor.]
11. Safety, Security and Protection of the Environment 11.1 The Contractor shall throughout the execution and completion of the Works and the remedying of any defects therein :
- (a) have full regard for the safety of all persons entitled to be upon the Site and keep the Site and the Works in an orderly state;
  - (b) provide and maintain at the Contractor's own cost all lights, guards, fencing, warning signs and watching for the protection of the Works or for the safety on-site; and
  - (c) take all reasonable steps to protect the environment on and off the Site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of the Contractors methods of operation.
  - (d) Take Care to re-plant trees uprooted or in any way destroyed during construction and with his best endeavours and as much as is possible given spaces available, plant new trees and nurture them to survive during the contract period.

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| 12. Access to the Site      | 12.1 | The Contractor shall allow the Engineer and any person authorised by the Engineer access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.  |
| 13. Documents, Information. | 13.1 | The Contractor shall furnish to the Engineer all information, schedules, calculations and supporting documentation that may be requested of it.  |
| 14. Property                | 14.1 | All materials on the Site, Plant, Equipment, Temporary Works and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default.   |
| 15. Insurance               | 15.1 | The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks: <ul style="list-style-type: none"> <li>(a) loss of or damage to the Works, Plant and Materials</li> <li>(b) loss of or damage to Equipment;</li> <li>(c) loss of or damage to property (except the Works, Plant, Materials and Equipment) in connection with the Contract; and</li> <li>(d) personal injury or death.</li> </ul> |
|                             | 15.2 | The Contractor shall deliver policies and certificates of insurance to the Engineer, for the Engineer's approval, before the Start Date.   |
|                             | 15.3 | If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.  |
|                             | 15.4 | Alterations to the terms of insurance shall not be made without the approval of the Engineer.  |
|                             | 15.5 | Both parties shall comply with conditions of the insurance policies.   |
| 16. Possession of the Site  | 16.1 | The Employer shall give possession of the Site, or parts of the Site, to the Contractor on the date(s) specified in the SCC.   |
| 17. Commencement of Works   | 17.1 | The Contractor may commence execution of the Works on the Start Date, or other such date as specified in the SCC, and shall carry out the Works in an expeditious manner.  |
|                             | 17.2 | If the Contractor fails to commence the works within the above stated period, the Employer may, at his sole discretion, terminate the Contract and forfeit the Performance Security, if any.   |
| 18. Completion of Works     | 18.1 | The Contractor shall complete the Works within the number of days stated in the SCC from the date of commencing the Works on the Site.   |

19. Programme of Works
- 19.1 Within the time stated in the SCC, the Contractor shall submit to the Engineer for approval a Programme showing the general methods, arrangements, order and timing for all the activities of the Works.
- 19.2 The Contractor shall submit to the Engineer for approval an updated Programme at intervals no longer than the period stated in the SCC.
- 19.3 If the Contractor does not submit an up-dated programme at the intervals stated in the SCC, the Engineer may withhold an amount as stated in the SCC from the next payment certificate and continue to withhold this amount until the next due payment after the date on which the overdue Programme has been submitted.
20. Early Warning
- 20.1 The Contractor shall notify the Engineer in writing at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work result in increase to the Contract Price or delay in the execution of the Works.
21. Compensation Events
- 21.1 The following shall be Compensation Events:
- (a) the Employer does not give access to the Site or part of the Site by the Site Possession Date stated in the SCC; and
- (b) if the payment is delayed pursuant to Clause 25.1.
- 21.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended, as appropriate, by the Engineer.
22. Non-Scheduled Items of Works
- 22.1 The Contractor shall be paid for non-scheduled items of works only when the Engineer approves such works and at the rates and in the manner stated in the SCC.
23. Schedule of Works
- 23.1 The priced Schedule of Works shall contain the priced activities for the Works to be performed by the Contractor. The Schedule of Works is used to monitor and control the performance of activities on which basis the Contractor will be paid. If payment for Materials on Site shall be made separately, the Contractor shall show delivery of Materials to the Site separately on the Schedule of Works.
- 23.2 The Schedule of Works shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Schedule of Works shall not be altered when the Contractor makes such changes to the Activity Schedule.
- 23.3 The Contractor shall be entirely responsible for all taxes, duties, license fees, and other such levies. The Engineer shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the Contract and the date of the last Completion Certificate.



24. Payment Certificates
- 24.1 The Contractor shall submit to the Engineer monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 24.2 The Engineer shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.
- 24.3 The value of work executed shall be determined by the Engineer.
- 24.4 The value of work executed shall comprise the value of the completed activities in the Schedule of Works.
- 24.5 The value of work executed shall include the valuation of Compensation Events.
- 24.6 The Engineer may exclude any item certified in previous certificates or reduce the proportion of any item previously certified in any certificate in the light of later information.
25. Payments and Currency
- 25.1 The Employer shall pay the Contractor the amounts certified by the Engineer within thirty (30) days of the date of each certificate. All payments shall be made in Naira.
- 25.2 The Employer shall make Advance Payment to the Contractor of the amounts and by the dates stated in the SCC against provision by the Contractor of an unconditional Bank Guarantee, (Form W-7).
- 25.3 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilisation expenses required specifically for the execution of the Contract. The Contractor shall demonstrate that the advance payment has been used in this way by supplying copies of invoices or other documents to the Employer.
- 25.4 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, claims or any amount payable due to failure to complete
26. Retention
- 26.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the SCC until the completion of the whole of the Works.
- 26.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor, the remaining half shall be repaid when the Defects Liability Period has passed and the Engineer has certified that all Defects notified by the Engineer to the Contractor before the end of this period have been corrected.
27. Liquidated Damages
- 27.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the SCC for each day that the Completion Date is later than the Intended Completion date for the works or for any part thereof.

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| 28. Performance Security  | 28.1 | If so specified in the SCC, a Performance Security shall be provided to the Employer in the amount stated in the SCC using the form in the Contract Forms (Form W-5). The Performance Security shall be valid until a date twenty-eight (28) days after the date of issue of the Certificate of Completion.  |
| 29. Cost of Repairs       | 29.1 | Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions  |
| 30. Completion            | 30.1 | The Contractor shall request the Engineer to issue a Certificate of Completion of the Works, and the Engineer will do so upon deciding that the work is completed.   |
| 31. Correction of Defects | 31.1 | The Engineer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as the Defects remain to be corrected.   |
|                           | 31.2 | If the Contractor has not corrected a Defect within the time specified in the Engineer's notice, the Engineer will assess the cost of having the Defect corrected, and the Contractor will pay this amount.  |
| 32. Taking Over           | 32.1 | The Employer shall take over the Site and the Works within seven (7) days of the Engineer issuing a Certificate of Completion.   |
| 33. Final Account         | 33.1 | The Contractor shall supply the Engineer a detailed account of the total amount that the Contractor considers payable under the Contract. The Engineer shall certify any final payment that is due to the Contractor within twenty-one (21) days of receiving the Contractor's account if it is correct and complete.  |
|                           | 33.2 | The Employer shall effect payment of the final account within thirty (30) days from the date of certification by the Engineer.   |
| 34. Termination           | 34.1 | The Employer or the Contractor by giving twenty-eight (28) days written notice of default to the other party, may terminate the Contract in whole or in part if the other party causes a fundamental breach of Contract.   |
|                           | 34.2 | Fundamental breaches of the Contract shall include, but shall not be limited to, the following: <ul style="list-style-type: none"> <li>(a) the Contractor stops work for more than twenty-eight (28) days when no stoppage of work is shown on the current Programme and the stoppage has not been authorised by the Engineer;</li> <li>(b) the Engineer gives notice that failure to correct a particular defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer;</li> </ul> |

- (c) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of Liquidated Damages can be paid;
  - (d) the Contractor, in the judgment of the Employer, has engaged in corrupt or fraudulent practices, as defined in GCC Clause 3, in competing for or in executing the Contract; or
  - (e) a payment certified by the Engineer is not paid to the Contractor by the Employer within seventy (60) days of the date of the Engineer's certificate.
- 34.3 The Employer and the Contractor may at any time terminate the Contract by giving written notice to the other party if either of the parties becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to any party provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue to the other party.
- 34.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 34.5 If the Contract is terminated, the Contractor is to stop work immediately, make the Site safe and secure and hand over the Site to the Employer as soon as reasonably possible.
35. Payment upon Termination
- 35.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done and Plant and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.
- 35.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Contractor shall be entitled to payments for completed works and the materials that have been brought to the site for the purpose of the works, but not used as certified by the Engineer after adjusting any payments received by the Contractor.
36. Release from Performance
- 36.1 If the Contract is frustrated by a force majeure any event entirely outside the control of either the Employer or the Contractor, the Engineer shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible, after receiving this certificate. The Contractor shall be paid for all works carried out before stoppage of work and any work carried out afterwards to which a commitment was made.
37. Settlement of Disputes
- 37.1 The Employer and the Contractor shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

- 37.2 Any dispute between the parties to the Contract that may not be settled amicably will be referred to Arbitration at the initiative of either of the parties.
- 37.3 The arbitration shall be conducted in accordance with the Arbitration and Conciliation Act Cap A18, Laws of the Federation of Nigeria 2004 or such as is at present in force.

## Section 4. Special Conditions of Contract

*Instructions for completing the Special Conditions of Contract are provided, as needed, in the notes in italics mentioned for the relevant GCC Clauses.*

Clause Ref	Amendments of, and Supplements to, Clauses in the General Conditions of Contract		
<b>GCC 1.1(d)</b>	The Contractor is <i>[name, address and name of authorised representative]</i> .		
<b>GCC 1.1(i)</b>	The Employer is <i>[name, address and name of authorised representative]</i> .		
<b>GCC 1.1(j)</b>	The Engineer is <i>[name and address of the Engineer]</i> .		
<b>GCC 1.1(l)</b>	The Site is located at <i>[enter location of Site]</i> .		
<b>GCC 1.1(m)</b>	The Works are <i>[enter the name of the Works]</i>		
<b>GCC 2.2(h)</b>	The additional documents forming part of this Contract are: <i>[if there are no additional documents state “No additional documents”.]</i>		
<b>GCC 5.1</b>	The Engineer shall obtain specific approval of the Employer before taking any of the following actions:		
<b>GCC 7.1</b>	The addresses for Communications shall be: <u>For the Employer:</u> <i>[insert name, address and contact details]</i> <u>For the Contractor:</u> <i>[insert name, address and contact details]</i> .		
<b>GCC 9.1</b>	The Key Personnel of the Contractor are:		
<b>GCC 15.1</b>	For insurance purposes the type of cover required shall be:		
	Type of Cover	Amount of Cover	Exclusions
	The Works, Materials and Plant	The Contract Sum	
	Contractor’s Equipment	Full replacement cost	
	Third Party injury to persons and damage to property		
	Workers		

	The Works, Materials and Plant: <i>[insert maximum value at risk, which should usually be less than the contract]</i>		
<b>GCC 16.1</b>	Possession of the site shall be within [ ] days from the date of signing of the Contract.		
<b>GCC 17.1</b>	Commencement of work shall be within [ ] days from the date of handing over possession of the Site.		
<b>GCC 18.1</b>	Completion of works shall be within [ ] days from the date of commencing the works on the site.		
<b>GCC 19.1 &amp; 19.2</b>	The Contractor shall submit the first Programme of Works [...] days after signing the Contract, and shall update the Programme every [...] weeks during the period of the Contract.		
<b>GCC 22.1</b>	<i>[ Enter here the agreed rates for non-scheduled items of work if known, if not known then make the statement "The rates for non-scheduled items of works shall be determined by the Engineer".</i>		
<b>GCC 25.2</b>	An advance payment of ( ) % of the Contract Price will be made to the Contractor within (14) days of Contract signing date.  <i>[usually, an advance payment is made for mobilisation, if admissible to the Employer considering the nature of the works. The recommended maximum advance payment in accordance with DSPPCL 2008 is 15% of the Contract Price against an unconditional bank guarantee (Form W-7). The procuring entity should amend this clause as required for the particular procurement. It is advised that advance payment should be set at between 10% and not more than -12% of the contract sum]</i>		
<b>GCC 26.1</b>	The Retention shall be <i>[insert percentage]</i> % of the Contract Price. <i>(The retention should not exceed 5% if a performance guarantee is also required)</i>		
<b>GCC 27.1</b>	The liquidated damages for the whole of the Works are <i>[percentage of the final Contract Price]</i> per day.  The maximum amount of liquidated damages for the whole of the Works is <i>[insert number]</i> percent of the final Contract Price.  <i>[usually, liquidated damages are set between 0.05 of one percent and 0.10 of one percent per day (or half of one percent per week of delay) and the total amount is not to exceed 10 percent of the Contract Price.]</i>		
<b>GCC 28.1</b>	A performance Security is required in the amount of <i>[insert amount or percentage of contract price]</i> " Or A performance Security is not required.		
<b>GCC 31.1</b>	The Defects Liability Period shall be [ ] days.		

<b>GCC 35.1</b>	The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works, is <i>[percent]</i>
<b>GCC 37.3</b>	The place for Arbitration shall be :

## Section 5. Bid and Contract Forms

Form	Title
<b>Bidder Forms</b>	
W-1	Bidder Submission Sheet
W-2	Bidder Information Sheet
W-3	Bank Guarantee for Bid Security
<b>Contract Forms</b>	
W-4	Notification of Award
W-5	Contract Agreement
W-6	Bank Guarantee for Performance Security
W-7	Bank Guarantee for Advance Payment

Forms W1-W3 comprise part of the Bid Format and should be completed as stated in ITB Clause 12.

Forms W4-W7 comprises part of the Contract as stated in GCC Clause 2.



## **Bid Submission Sheet (Form W-1)**

Invitation To Bid No:

Date:

Bid Package No:

To:

*[Name and address of Employer]*

We, the undersigned, offer to execute in conformity with the Conditions of Contract and associated Contract Documents, the following Works and Related Services, viz:

*[state here a brief description of the Works and Related Services]*

The total Price of our Bid is:

Naira:

*[state amount in figures]*                      *[state amount in words]*

Our Bid shall be valid for the period stated in the Special Instructions to Bidders and it shall remain binding upon us and may be accepted at any time before the expiration of that period. A Bid Security in the amount stated in the Special Instructions to Bidders is attached in the form of a *[bank draft, pay order, bank guarantee]* valid for a period of 28 days beyond the Bid validity date. *[include this sentence only if a Bid Security is required].*

If our Bid is accepted, we commit to obtaining a Performance Security in the amount stated in the Special Instructions to Bidders and valid for a period of 28 days beyond the issue of the Certificate of Completion of Works.

We declare that we, and any subcontractors or Contractors for any part of the Contract have not been declared ineligible by the Government of Delta State, the Federal Government of Nigeria and or any other State government in Nigeria on charges of engaging in corrupt, fraudulent, collusive or coercive practices or unethical behaviour. Furthermore, we are aware of ITB Clause 3 concerning this and pledge not to indulge in such practices in competing for or in executing the Contract.

We are not participating as Bidders in more than one Bid in this bidding process. We understand that your written Notification of Award shall constitute the acceptance of our Bid and shall become a binding Contract between us, until a formal Contract is prepared and executed, subject only to results of a prior contract certification process where applicable..

We understand that you are not bound to accept the lowest evaluated Bid or any other Bid that you may receive.

Signed

In the capacity of:

Duly authorised to sign the Bid on behalf of the Bidder

Date

## Bidder Information Sheet (Form W-2)

*All Bidders shall include the following information and documents with their Bids:*

### **Notes on Bidder Information Sheet**

*The information to be filled in by Bidders in the following pages will be used for purposes of verification of eligibility and qualification of the bidder as provided for in relevant Clauses of the Instructions to Bidders.*

*The Bidder, if prequalified earlier, should fill in updated information only.*

*Additional pages may be attached as necessary.*

*This information will not be incorporated in the Contract.*

Bid No:

Invitation To Bid No:

1. Name and value of Works performed in the last (3-5) years.

Year	Name of Works	Value of Works	Name of Employer

2. Works in Hand

Name of Works	Value of Works	Progress %

3. The Bidder should list the Equipment deemed essential for carrying out the Works.

Type of Equipment	No. Available	Owned / Leased (and from whom)

4. Evidence of financial capability to perform this Contract. The Bidder should list cash in hand, lines of credit, and attach supporting documentary evidence

1
2
3
4
5

5. Schedule of Key Personnel

Sl No	Position	Name	Qualification	Experience

6. Status of Enlistment:

Name of Procuring Entity	Enlistment Reference	No of Years Enlisted

\_\_\_\_\_  
[Signature and Seal of the Tenderer]

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

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

\_\_\_\_\_

\_\_\_\_\_

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

## Bank Guarantee for Bid Security (Form W-3)

*[this is the format for the Bid Security to be issued by a commercial Bank of Nigeria in accordance with ITB Clause 15]*

Invitation for Bidder No:

Date:

Bidder Package No:

To:

[Name and address of Employer]

### **BID GUARANTEE (BID SECURITY) No:**

We have been informed that *[name of Bidder]* (hereinafter called “the Bidder”) intends to submit to you its Bid dated *[date of Bid]* (hereinafter called “the Bid”) for the execution of the Works of *[description of works]* under the above Invitation to Bid (hereinafter called “the ITB”).

Furthermore, we understand that, according to your conditions bids must be supported by a Bid Guarantee.

At the request of the Bidder, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and words]* upon receipt by us of your first written demand accompanied by a written statement that the Bidder is in breach of its obligation(s) under the Bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of Bid validity specified by the bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders ITB; or
- (c) having been notified of the acceptance of the Bid by the Employer during the period of Bid validity, (i) fails or refuses to furnish the performance security in accordance with the ITB, or (ii) fails or refuses to execute the Contract Form,

This guarantee will expire

- (a) if the Bidder is the successful Bidder, upon our receipt of a copy of the Performance Security and a copy of the Contract signed by the Bidder as issued by you; or
- (b) if the Bidder is not the successful Bidder, twenty eight days after the expiration of the Bid validity period, being *[date of expiration of the Tender]*.

Consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## Notification of Award (Form W-4)

Contract No:

Date:

To:

*[name and address of Contractor]*

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

You are requested to proceed with the execution of the Works on the basis that this Notification of Award shall constitute the formation of a Contract (subject to issuance of Certificate of No Objection where applicable), which shall become binding upon you furnishing a Performance Security within fourteen (14) days, in accordance with ITB Clause 32, and the signing the Contract Agreement within twenty-one (21) days, in accordance with ITB Clause 33.

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

Signed

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

Date:

## Contract Agreement (Form W-5)

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

WHEREAS, the Employer invited Bids for certain Works, viz, [brief description of the Works] and has accepted a Bid by the Contractor for the execution of those works in the sum of Naira [insert amount in figures and words], hereinafter called “the Contract Price.

NOW THIS AGREEMENT WITNESSETH as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions of Contract hereinafter referred to.
2. The documents forming the Contract shall be interpreted in the following order of priority:
  - (a) The signed Contract Agreement;
  - (b) The letter of Notification of Award;
  - (c) The completed Bid Submission Sheet as submitted by the Bidder;
  - (d) The priced Schedule of Works as completed by the Bidder;
  - (e) The Special Conditions of Contract;
  - (f) The General Conditions of Contract;
  - (g) Technical Specification
  - (h) The Drawings; and
  - (i) Any other document listed in the SCC as forming part of the Contract.
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and to remedy any defects therein in conformity in all respects with the provisions of the Contract.
4. The Employer 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 thereto have caused this Agreement to be executed in accordance with the laws of Nigeria on the day month and year first before written

For the Employer

For the Contractor

Signature

Print Name

Title

In the  
presence of  
(Name)

Address

## **Bank Guarantee for Performance Security (Form W-6)**

*[this is the format for the Performance Security to be issued by a commercial bank of Nigeria in accordance with ITB Clause 32]*

Contract No:

Date:

To:

[Name and address of Employer]

### **PERFORMANCE GUARANTEE (BOND) No:**

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your conditions, Contracts must be supported by a performance guarantee.

At the request of the Contractor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without your needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature



## **Bank Guarantee for Advance Payment (Form W-7)**

*[this is the format for the Advance Payment Guarantee to be issued by a commercial bank of Nigeria in accordance with SCC Clause 25.2]*

Contract No:

Date:

To:

[Name and address of Employer]

### **ADVANCE PAYMENT GUARANTEE (BOND) No:**

We have been informed that *[name of Contractor]* (hereinafter called “the Contractor”) has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called “the Contract”), the execution of works *[description of works]* under the Contract.

Furthermore, we understand that, according to your conditions, Advance Payments must be supported by a bank guarantee.

At the request of the Contractor, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Contractor is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

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

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

## **Insurance Bond for Advance Payment (Form W-8)**

[this is the format for the Advance Payment Guarantee to be issued by a registered Insurance company in the list of insurance companies acceptable to the Procuring Entity. )

Contract No:

Date:

To:

[Name and address of Client]

INSURANCE BOND No:

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

Furthermore, we understand that according to the conditions of the contract, a mobilization fee (advance payment) in the sum of [amount in figures] ([amount in figures]) is to be made against an insurance bond.

At the request of the Contractor, we (name of insurance company [Surety]) and the Contractor by this BOND are held firmly bound unto [insert name of the procuring entity (Client)] in the sum of [amount in figures and currency and in words) for the payment of which sum the Contractor and the surety bind themselves, their assigns jointly and severally by this agreement, and notwithstanding any contestation by the Contractor.

The Conditions of the Bond above are as follows-

1. If on default by the Contractor declared in writing to the Surety by the Client, the Surety shall without any further evidence, at sight of a demand from (Insert name of procuring entity/Client ) pay and discharge the liquidated damages claimed by the Client thereby up to the amount stated above
2. The Surety agrees that no change, addition or other modification of the terms of the contract to be performed or any of the Contract documents which may be made between the Client and the Contractor shall in any way discharge them from any liability under this Bond, and hereby waives notice of any such change, addition or modification.
3. The maximum amount of this bond shall be progressively reduced by the amount of the mobilization payment repaid by the Contractor as indicated in copies of certified monthly statements (Reports or any other milestone indicator) which shall be presented to us (Surety)
4. This Bond is valid until [date of validity of bond], consequently we must receive at the above mentioned office any demand for payment under this bond on or before that date.

Signature

Signature

## Section 6. Schedule of Works including Technical Specifications

Item No.	Specification Clause Number	Brief Description of Works	Unit of Works	Quantity of Works	Unit Rate (in Naira)	Total Amount (in Naira)
1	2	3	4	5	6	7 = 5x6
<b>Total Amount in Naira</b>						

The objectives of the Schedule of Works including Technical Specifications are:

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

In order to attain these objectives, Works should be itemized in the above schedule in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances that may give rise to different considerations of cost. Consistent with these requirements, the layout and content of the Schedule should be as simple and brief as possible. If required the Technical Specifications for particular items or classes of work should be specified in more detail in the form of notes attached to this Section or Section 8 hereof .

## Section 7. Drawings

### Notes on Drawings

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

## **Section 8. Technical Specification**