

Republic of Sierra Leone

Standard Bidding Documents

Procurement of Small Works

[Name of Procuring Entity]

[Title of Proposed Contract]

Procurement Number: _____

Date of Issue: *[day month year]*

Introduction

This Standard Bidding Document (SBD) is to be used for the procurement of relatively small works with an estimated value between Leones 25 and 150 million under Restricted Bidding. It may be used for both admeasurement (unit prices or unit rates in a bill of quantities) and lump sum types of Contract. Lump sum contracts are used in particular for buildings 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. The main text refers to admeasurement contracts. **Alternative clauses or texts are supplied for use with lump sum contracts.**

Care should be taken to check the relevance of the provisions of the standard document against the requirements of the specific Works to be procured. The following directions should be observed when using the bidding document:

- (a) Details to be provided by the Employer prior to release of the bidding documents are required in Section III, Statement of Requirements which deal with Specifications, Drawings, and Bill of Quantities, respectively. **Specific details** should be furnished in the spaces indicated by italic notes inside brackets. Those details not filled in by the Employer are the responsibility of the Bidder.
- (b) [] denotes an explanatory note to procurement staff where information is to be inserted when drafting the bidding document. These should be deleted from the final document prior to issue.
- (c) { } denotes notes which provide important guidance to bidders and should be retained in the issued bidding documents.

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Section I. Request for Bids

[Procuring Entity Letterhead Paper]

[Name and Address of shortlisted Bidder]

[Procurement Reference Number]

[Date]

Dear Sirs,

Request for Bid for *[Subject of Procurement]*

The Procuring Entity indicated above invites your bid for the subject Works.

This procurement process will be conducted in accordance with the Procurement of Small Works under Restricted Bidding procedures method in accordance with the Government of Sierra Leone's Procurement Regulations and the procedures described in Section II: Bid Procedures.

The Works required are described in detail in Section III Statement of Requirements.

Any resulting contract shall be subject to the terms and conditions detailed in Section IV: Contract.

Any queries should be addressed to _____ at the address given above.

Please prepare and submit your bid in accordance with the instruction in Section II: Bidding Procedures or inform the undersigned if you will not be submitting a bid.

Yours sincerely,

[Signature, Name and Position of Authorised Official]

Section II: Bidding Procedures

Procurement Reference Number: _____

Preparation of Bids: You are requested to Bid for the Works by completing, signing and returning:

1. the Bid Submission Sheet in this Section II;
2. the Bill of Quantity **or** the Activity Schedule provided in Section III;
3. the documents evidencing your eligibility, as listed below;
4. *[any other requirements]*

You are advised to carefully read the complete Request for Bids document, including the Contract Data in Section IV. Contract, before preparing your bid.

Validity of Bids: The bid validity required is _____ days after the deadline for bids.

Sealing and marking of Bids: Bids should be sealed in a single envelope, clearly marked with the Procurement Reference Number above. Envelopes should be sealed in such a manner that opening and resealing cannot be achieved undetected.

Submission of Bids: Bids should be submitted to the address below, no later than the date and time of the deadline below. Bids received after the deadline will be rejected.

Date of deadline: _____ (day, month and year).

Time of deadline: _____

Address: _____

Opening of Bids: Bids will be opened by the Procuring Entity immediately after the deadline. Bidders' representatives are permitted to attend the opening. A record of the opening will be posted on the Procuring Entity's Notice Board within one working day of the opening.

Evaluation of Bids: The evaluation of bids will use the Technical Compliance Selection methodology as detailed below:

1. Preliminary examination to determine eligibility (as defined below) and administrative compliance to this Request for Bids on a pass/fail basis;
2. Detailed evaluation to determine commercial and technical responsiveness;
3. Financial comparison to determine the evaluated price of bids and to determine the best evaluated bid.

Bids failing any stage will be eliminated and not considered in subsequent stages.

Eligibility Criteria: You are required to meet the following criteria to be eligible to participate in public procurement:

1. have the legal capacity to enter into a contract;
2. not be insolvent, in receivership, bankrupt or being wound up or subject to legal proceedings for any of these circumstances;
3. not have had your business activities suspended;

4. have fulfilled your obligations to pay taxes and social security contributions;
5. have the Contractor Classification [*insert required classification*];
6. not to have a conflict of interest in relation to this procurement requirement; and
7. not to be subject to suspension by the any Government authority.

Documents Evidencing Eligibility: You are requested to submit copies of the following documents as evidence of your eligibility:

1. A copy of a valid business licence,
2. A copy of a valid business registration certificate,
3. A copy of valid NRA Tax Clearance Certificates (for last three Financial Years),
4. NASSIT clearance,
5. A list of recent contracts performed,
6. Contractor classification
7. [*Insert any other documentation required by the Entity*]

Technical Requirements: The Works are defined in Section III, Statement of Requirements.

Bid Prices: Bids shall cover all costs of labour, materials, equipment, overheads, profits and all associated costs for performing the works and shall include all taxes and duties. The whole cost of performing the works shall be included in the items stated and the cost of any incidental works shall deemed to be included in the prices quoted.

Currency: Bids must be priced in Leones and all payments shall be made in Leones.

Best Evaluated Bid: The best evaluated bid shall be the lowest priced bid, which is eligible and substantially responsive to the commercial and technical requirements of the procuring entity and shall be recommended for award of contract.

Award of contract: Award of contract shall be by placement of a contract in accordance with Section IV: Contract.

Right to Reject: The Procuring Entity reserves the right to accept or reject any bid or to cancel the bidding process and reject all bids at any time prior to contract award.

Bid Submission Sheet

{Complete this form with all the requested details and submit it as the first page of your bid. Ensure that your bid is authorised in the signature block below. If any documentation is attached, a signature and authorisation on this form will confirm that the terms and conditions of this bidding document prevail over any attachments. If your bid is not authorised, it may be rejected.}

Bid Addressed to (Procuring Entity):	
Date of Bid:	
Procurement Reference Number:	
Subject of Procurement:	

We offer to provide the Works detailed in the Statement of Requirements, in accordance with the terms and conditions stated in your Request for Bids referenced above.

We confirm that we are eligible to participate in public procurement and meet the eligibility criteria specified in Section II: Bid Procedures of your Request for Bids.

The validity period of our bid is: _____ days/weeks/months from the time and date of the submission deadline.

We confirm that the rates quoted in the Bills of Quantities [**or** prices in the Activity Schedule] are fixed and firm for the duration of the validity period and will not be subject to revision or variation.

Works will commence within _____ days/weeks/months from date of Purchase Order.

Works will be completed within _____ days/weeks/months from date of Purchase Order.

Bid Authorised By:

Signature: _____ Name: _____

Position: _____ Date: _____
(dd/mm/yy)

Authorised for and on behalf of:

Company: _____

Address: _____

Section III: Statement of Requirements

Scope of Works

Procurement Reference Number: _____

Brief Description of Works

[Insert details]

Location of Works

[Insert Details]

Commencement and Completion Periods Required

[Insert Details]

Specifications and Drawings

The Works are to be performed in accordance with the following attached Technical Specifications and Drawings:

[List below the Specifications and Drawings and attach these to the bidding document]

- 1.
- 2.
- 3.

Section III: Statement of Requirements

Bill of Quantities for Unit Price Contracts

Procurement Reference Number: _____

{Complete the unit and total prices for each item listed below. Authorise the prices quoted in the signature block below.}

Item No	Item Description	Quantity	Unit of Measure	Unit Price in Leones	Total Price in Leones
Estimated Total Price					

Authorised By:

Signature: _____ Name: _____

Position: _____ Date: _____

(DD/MM/YY)

Authorised for and on behalf of:

Company: _____

Section IV: Form of Contract

AGREEMENT

This Agreement, made the _____ day of _____

20 _____, between

_____ [*name and address of Employer*] (hereinafter called “the Employer”) and _____

_____ [*name and address of Contractor*] (hereinafter called “the Contractor”) of the other part.

Whereas the Employer is desirous that the Contractor execute _____

_____ [*name and identification number of Contract*] (hereinafter called “the Works”) and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

Now with this Agreement witnesseth as follow:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. The following documents shall be deemed to form and be read and construed as part of the agreement, viz:
 - (a) Agreement,
 - (b) Contractor's Bid
 - (c) Contract Data
 - (d) Conditions of Contract
 - (e) Specifications
 - (f) Drawings
 - (g) Bills of Quantities (Activity Schedule), and
 - (h) any other documents listed in the Contract Data 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 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 wherein the Contract Price of _____ [*insert amount*] Leones or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

The Common Seal of

_____ was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the
Said

_____ in
the presence of:

Binding Signature of Employer _____

Binding Signature of Contractor _____

Section V. Conditions of Contract

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Section V. Conditions of Contract

1. Definitions

1.1 Boldface type is used to identify defined terms.

Activity Schedule means the priced and completed Activity Schedule forming part of the Bid for a Lump Sum Contract.

Bill of Quantities means the priced and completed Bill of Quantities forming part of the Bid.

Compensation Events are those defined in Clause 21 hereunder

The Completion Date is the date of completion of the Works as certified by the Project Manager, in accordance with Sub-Clause 28.

The Contract is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. The name and identification number of the Contract is given in the Contract Data.

The Contractor is the person or corporate body whose Bid to carry out the Works has been accepted by the Employer.

The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

Dayworks are additional, varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

Days are calendar days; months are calendar months.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Period** is the period named in the Contract Data and calculated from the Completion Date.

Drawings include calculations and other information provided or approved by the Employer for the execution of the Contract.

The **Employer**, as specified in the Contract Data, is the party who employs the Contractor to carry out the Works. The name of the Employer's representative authorized to deal with the Contractor is also given in the Contract Data.

Equipment is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract price listed in the Employer's Letter of Acceptance.

Materials are all supplies, including consumable, used by the Contractor for incorporation in the Works.

The **Project Manager** is the person named in the Contract Data (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract

The **Required Completion Date** is the date on which it is required that the Contractor shall complete the Works. The Required Completion Date is specified in the Contract Data. The Completion Date may be revised only by the Employer by issuing an extension of time or an acceleration order.

The **Site** is the area defined as such in the Contract Data.

Specification means the Specification of the Works included in the Contract and any modification or addition made or approved by the Employer.

The **Start Date** is given in the Contract Data. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.

A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

Temporary Works are works designed, constructed, installed and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Project Manager with the approval of the Employer which varies the original Work requirement.

The **Works** are what the Contract requires the Contractor

to construct, install, and turn over to the Employer, as defined in the Contract Data

- 1.2** This shall be a “Unit Price Contract based on Priced Bill of Quantities”/”Lump Sum Contract” based on priced Activity Schedule”, as specified in the Contract Data.

However, if a Government law or decree passed between the date 28 days before the submission of bids for the Contract and the Required Completion Date results in an increase in the price of labor and material, the Employer will adjust the contract price accordingly, provided that the Contractor shall submit documents satisfactory to the Project Manager proving that the requested increases are a result of Government laws or decrees.

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|-------------------------------------------------|------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 2. Language and Law | 2.1 | The language of the Contract is English and the law governing the Contract are the Laws of the Republic of Sierra Leone. |
| 3. Commun-ications | 3.1 | Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered. |
| 4. Sub-contracting and other contractors | 4.1 | The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without approval of the Employer in writing. Subcontracting shall not alter the Contractor’s obligations. Not more than 50% of the work may be sub-contracted. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer. |
| 5. Personnel | 5.1 | The Contractor shall employ the key personnel named in the Schedule of Key Personnel, referred to in the Contract Data, to carry out the functions stated in the Schedule of other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule. |
| | 5.2 | If the Project Manager asks the Contractor to remove a person who is a member of the Contractor’s staff or work force, stating valid reasons, the Contractor shall ensure that the person leaves the Site within 72 hours and has no further connection with the work in the Contract. |
| 6. Contractor’s Risks | 6.1 | From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) Contractor’s risks and |

adjacent property.

- 7. Insurance**
- 7.1** 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 stated in the Contract Data for the following events which are due to the Contractor's risks:
- (a) loss of or damage to the Works, Equipment, Plant and Materials;
 - (b) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
 - (c) personal injury or death and Third Party liability.
- 7.2** Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for approval within 15 days of receipt by the Contractor of the Employer's Notice of Acceptance. All such insurance shall provide for compensation required to rectify the loss or damage incurred. If the Contractor fails to provide the required certificates, the contract shall be considered as annulled. However, the Employer at its discretion may decide to extend the period for submission of insurance certificates or take out the insurance and deduct the cost of premiums from the Contractor's earnings.
- 7.3** Alterations to the terms of an insurance shall not be made without the approval of the Employer.
- 8. Contractor to Construct the Works**
- 8.1** The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.
- 9. The Works to Be Completed by the Completion Date**
- 9.1** The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Required Completion Date.
- 10. Safety**
- 10.1** The Contractor shall be responsible for the safety of all activities on the Site.
- 11. Program**
- 11.1** Within the time stated in the Contract Data, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works. The Contractor shall update the Program at intervals no longer than the period stated in the Contract Data. The Project Manager's approval of the Program shall not alter the Contractor's

obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

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|--------------------------------------------------|-------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 12. Extension of the Completion Date | 12.1 | The Project Manager shall extend the Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Required Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost |
| 13. Delays Ordered by the Project Manager | 13.1 | The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works. Delays or suspension of work by the Project Manager which increase the Contractor's costs shall be subject to equitable adjustments by the Employer. |
| 14. Early Warning | 14.1 | The Contractor shall inform the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible. |
| | 14.2 | The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager |
| 15. Correction of Defects | 15.1 | The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the Contract Data. The Defects Liability Period shall be extended for as long as Defects remain to be corrected. |
| | 15.2 | Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice. |
| 16. Uncorrected Defects | 16.1 | If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount, or the Employer shall recuperate these amounts by deduction from the amounts due to the Contractor. |

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- 17. Bill of Quantities**
- 17.1** The Bill of Quantities (for lump-sum Contracts entire Clause 17 shall be replaced with a new Clause as indicated in the Contract Data) shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor. For Lump Sum contracts, payment activities schedule shall be listed.
- 17.2** The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work actually done at the rate of the Bill of Quantities for each item.
- 18. Changes in the Quantities**
- 18.1** If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 1 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change. (For lump-sum contracts, this clause shall be substituted by a new clause as indicated in Contract Data).
- 19. Payment Certificates**
- 19.1** The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 19.2** The Project Manager shall check the Contractor's executed work and certify the amount to be paid to the Contractor.
- 19.3** The value of work executed shall be determined by the Project Manager.
- 19.4** The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed. (For lump sum contracts, this Clause shall be substituted by a new Clause as indicated in the Contract Data).
- 19.5** The value of work executed shall include the valuation of Variations and Compensation Events.
- 20. Payments**
- 20.1** Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 45 days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made, up to the date when the late payment is made, at the rate of interest prevailing at the local banks for construction loans.

20.2 Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract.

21. Compensation Events

21.1 The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
- (b) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of Works on time.
- (c) The Project Manager instructs the Contractor to uncover or to carry out tests upon completed work, which is then found to have no Defects.
- (d) Other contractors, public authorities, utilities, or the Employer cause delay or extra cost to the Contractor.
- (e) The advance payment is delayed.
- (f) The Project Manager unreasonably delays issuing a certificate of completion.
- (g) Any other events as stipulated in the Contract Data.

If such an event occurs, then the Contract Price shall be equitably adjusted.

22. Tax

22.1 The Contractor is liable for all taxes in accordance with the laws of the Sierra Leone. However, the Project Manager 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. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such charges are already not reflected in the Contract Price.

23. Liquidated Damages

23.1 The Contractor shall pay liquidated damages to the Employer at the rate per day stated in the Contract Data for each day that the Completion Date is later than the Required Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the Contract Data. The Employer may deduct liquidated damages from any payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.

- 24. Advance Payment**
- 24.1** The Employer shall make advance payment to the Contractor of the amounts stated in the Contract Data after the Contractor has:
- (i) delivered to the site construction equipment and/or materials for initiating the work, and
 - (ii) submitted the Advance Payment Guarantee.
- 24.2** The Contractor is to use the advance payment only to pay for Equipment, materials and other expenses required specifically for carrying out the works. The Contractor shall demonstrate that advance payment has been used in this way by supply of copies of invoices or other documents to the Project Manager.
- 24.3** The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, to be recovered within one half of the completion period.
- 25. Retention Monies**
- 25.1** An amount, specified in the Contract Data, will be retained from each payment to the Contractor to assure performance of the work. This money will be paid out to the contractor upon completion and acceptance of the work and within 15 days of the issue by the Project Manager of the Defects Liability Certificate.
- 26. Dayworks**
- 26.1** If applicable, the Dayworks rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 26.2** All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.
- 26.3** The Contractor shall be paid for Dayworks as work is performed subject to obtaining signed Dayworks forms.
- 27. Cost of Repairs**
- 27.1** Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability period shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.
- 28. Completion and Taking Over**
- 28.1** The Contractor shall request the Project Manager to issue a certificate of completion of the Works, and the Project Manager will issue such a certificate when he determines

that the work is satisfactorily completed. The Employer shall taken over the site and the works within seven days of the Project Manager's issuing of a certificate of completion.

- 29. Final Account** **29.1** The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 30 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 30 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.
- 30. Termination-action** **30.1** The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 30.2** Fundamental breaches of Contract shall include, but shall not be limited to, the following:
- (a) the Contractor stops work for 15 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 15 days; or agreement reached on payments due contractor for cost of delay;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 60 days of the date of the Project Manager's certificate;
 - (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within 30 days determined by the Project Manager;
 - (f) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the Contract Data.
- 30.3** When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other those

listed under Sub-Clause 30.2 above, the Project Manager shall decide whether the breach is fundamental or not.

30.4 Notwithstanding the above, the Employer may terminate the Contract for convenience by giving the Contractor a thirty-day notice in writing.

30.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site within 15 days of the completion of the notice period.

31. Payment upon Termination

31.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the Contract Data. 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.

31.2 If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

32. Property

32.1 If the Contract is terminated because of the Contractor's default, all Materials and Construction Equipment (owned by the Contractor) on the Site, Plant, Temporary Works, and Works shall be deemed to be the property of the Employer.

33. Release from Performance

33.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards for which an agreement has been reached.

34. Resolution of Disputes

34.1 The Employer and the Contractor shall make every effort to resolve amicably by direct informal negotiation any

disagreement or dispute arising between them under or in connection with the Contract. If after thirty (30) days from the commencement of such informal negotiations, the Employer and the Contractor have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to three independent qualified experts, one chosen by the Employer and one chosen by the Contractor and the third chosen by an appropriate professional body, such as the Chamber of Commerce. The three should arrive at a solution satisfactory to the Employer and the Contractor. In case of further disagreement either party can take the matter to arbitration in accordance with the Law governing the Contract. The place where arbitration will take place will be stated in the Contract Data.

Section VI. Contract Data

Procurement Reference Number: _____

Condition of Contract Clause Number	Contract Data
1.1	<p>Insert in the Contract Data the following Definitions:</p> <p>“Contract: The Name and Procurement Number of the Contract are _____ [Name and number of Contract].</p> <p>“Defects Liability Period: The Defects Liability Period is _____ [days/months]</p> <p>“Employer: The Employer is _____ _____ _____ [insert full name and address of Procuring Entity].”</p> <p>“Intended Completion Date: The Intended Completion Date shall be _____ [insert date].” [If different dates are specified for completion of the Works by section (“sectional completion”), these dates should be listed here.]</p> <p>“Project Manager: The Project Manager is _____ [insert full name and address] ”</p> <p>“Site: The Site is located at _____ [insert location address] and is defined in drawing Nos. _____ [insert drawing numbers] attached.”</p> <p>“Start Date: The Start Date shall be _____ [insert date] ”</p> <p>“Works: The Works consist of: _____ [insert a brief summary description of the Works as indicated in the Invitation for Bids, including relationship to other contracts under the project].”</p>
1.2	<p>This contract shall be a Unit Priced Contract based on Priced Bills of Quantities/Lump Sum Contract based on a priced Activity Schedule [Delete as appropriate]</p>
5.1	<p>The following documents are also part of the Contract:</p> <ul style="list-style-type: none"> • The Schedule of Key Personnel

Condition of Contract Clause Number	Contract Data
	<ul style="list-style-type: none"> • <i>Etc</i>
7.1	<p>The minimum insurance covers shall be:</p> <p>(a) The minimum insurance cover for the loss of or damage to the Works, Equipment, Plant and Materials shall be _____ [<i>amount in Leones and an equivalent in a foreign currency, usually 110% of the value of the Works</i>], with a maximum deductible of _____ [<i>insert amount in Leones and an equivalent in a foreign currency</i>]</p> <p>(b) The minimum insurance cover for loss of or damage to property (except the Works, Plant, Materials and Equipment) is _____ [<i>amount in Leones and an equivalent in a foreign currency</i>] with a maximum deductible of _____ [<i>insert amount in Leones and an equivalent in a foreign currency</i>]</p> <p>(c) The minimum insurance cover for personal injury or death and Third Party Liability is [<i>amount in Leones and an equivalent in a foreign currency</i>] with no deductible.</p>
11.1	<p>The period for submission of the Program is 10 (Ten) Days from the date of signature of Agreement. The Project Manager shall determine the requirement for the Contractor to update the Program</p>
15.1	<p>The Defects Liability Period is [<i>number usually 90</i>] days.</p>
17	<p>In the case of lump sum contracts, Clause 17 shall be replaced by the following new clause 17 as follows:</p> <p>17 Activity Schedule</p> <p>17.1 The Contractor shall provide updated Activity Schedules within 14 days of being instructed by the Employer. The activities on the Activity Schedule shall be co-ordinated with the activities on the Program.</p> <p>17.2 The Contractor shall allow delivery of Materials to the site separately on the Activity Schedule if Payment for Materials on site shall be made separately.</p>
18.1	<p>In the case of lump sum contracts, Clause 18.1 shall be replaced by the following new Clause 18.1 as follows;</p> <p>“18.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of program or method or working made at the Contractor’s own discretion. Prices in the Activity Schedule shall not be altered when the Contractor made such changes to the Activity Schedule.”</p>
19.4	<p>In case of lump sum contracts, clause 19.4 is replaced as follows:</p> <p>“19.4 The value of work executed shall comprise the value of completed activities in the Activity Schedule.”</p>

Condition of Contract Clause Number	Contract Data
21.1 (a)	The Site Possession Date shall be _____
21.1 (g)	The following events shall also be Compensation Events : <i>[list events]</i>
23.1	The liquidated damages for the whole of the Works are <i>[percentage]</i> of the Final Contract Price per day. <i>[or state no liquidated damages will be applied]</i>
23.1	The maximum amount of liquidated damages for the whole of the Works is <i>[percent]</i> of the Final Contract Price.
24.1	The advance payment will be <i>[amount or percentage of the Initial Contract Price]</i>
25.1	The amount of retention money will be <i>[percent]</i> of each payment due to the Contractor up to the maximum of <i>[percent]</i> of the total contract amount.
31.1	The percentage to apply to the value of the work not completed, representing the Employer's additional cost for completing the Works is 10 % (ten percent)
34.1	The place where arbitration will take place is _____ <i>[location]</i> . <i>[Alternatively, where arbitration is not to be used the text above should be replaced with the following sentence]</i> Arbitration shall not be invoked and any dispute not settled by the panel of experts shall be referred to the civil law court.

Section VII. Bank Guarantee Form for Advance Payment

This sample of Advance Payment Guarantee is for information only. Bidders should not complete the form at this time as only the successful Bidder will be required to provide the Advance Payment Guarantee.

To: *[name and address of Employer]*

[name and Procurement Number of Contract]

Gentlemen:

In accordance with the provisions of the Conditions of Contract, Clause 24 (“Advance”) of the above-mentioned Contract, *[name and address of Contractor]* (hereinafter called “the Contractor”) shall deposit with *[name of Employer]* a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of *[amount of Guarantee]* *[amount in words]*.¹

We, the *[Bank or Financial Institution]*, as instructed by the Contractor, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to *[name of Employer]* on his first demand without whatsoever right of objection on our part and without his first claim to the Contractor, in the amount not exceeding *[amount of Guarantee]* *[amount in words]*.²

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

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until *[name of Employer]* receives full repayment of the same amount from the Contractor.

Yours truly,

Signature and seal: _____

Name of Bank: _____

Address: _____

Date: _____

¹ An amount is to be inserted by the Bank or Financial Institution 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.

² An amount is to be inserted by the Bank or Financial Institution 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.