



**THE FEDERAL REPUBLIC OF SOMALIA**  
**Ministry of Energy and Water Resources**  
**“MOEWR”**

**Bidding Document for Service**

**GEOPHYSICAL SURVEY**

**International Competitive Bid No:**

**GFRS-MOEWR/UNICEF/MP/ICB/001/6/21**

**Project: MOEWR/UNICEF MICRO PLAN 2021**

**Client: Ministry of Energy and Water Resources**

**Country: Somalia**

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## **PART 1 – Bidding Procedures**

# Section I. Instructions to Bidders

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# Section I. Instructions to Bidders

## A. General

1. **Scope of Bid**
  - 1.1 In connection with the Invitation for Bids, **specified in the Bid Data Sheet (BDS)**, the **MOEWR**, **as specified in the BDS**, issues these Bidding Documents for the supply of Services and Related Services incidental thereto as specified in Section VII, Schedule of Requirements. The name, identification of this International Competitive Bidding (NCB) procurement are **specified in the BDS**.
  - 1.2 Throughout these Bidding Documents:
    - (a) The term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) 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 Recipient (hereinafter called “Ministry of Energy and Water Resources”) **specified in the BDS** has received financing in an amount **specified in BDS**, toward the project named **in BDS**. The Ministry of Energy and Water Resources intends to apply a portion of the funds to eligible payments under the contract for which these Bidding Documents are issued.
  - 2.2 Payment by the Ministry of Energy and Water Resources will be made only in accordance with the terms and conditions of the Ministry. the Ministry of Energy and Water Resources prohibits a withdrawal from the Fund (or other financing) account for the purpose of any payment to persons or entities, or for any import of Services, if such payment or import, to the knowledge of the ministry, is prohibited by decision of the Federal Government of Somalia or the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Ministry shall derive any rights from the project or have any claim to the proceeds of the activity.
3. **Corrupt and Fraudulent Practices**
  - 3.1 The MoEWR requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.
  - 3.2 In further pursuance of this policy, Bidders shall permit and shall cause its agents (where declared or not), sub-contractors, sub-consultants, service providers or Service providers to permit the MOEWR to inspect all accounts, records and other documents relating to the submission of the application, bid submission (in case prequalified), and contract performance (in the case of award), and to have them audited by auditors appointed by the MoEWR.
4. **Eligible Bidders**
  - 4.1 A Bidder may be a firm that is a private entity, a government-owned entity—subject to ITB 4.5—or any combination of such entities in the

form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS**, there is no limit on the number of members in a JV.

4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder:

- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
- (b) receives or has received any direct or indirect subsidy from another Bidder; or
- (c) has the same legal representative as another Bidder; or
- (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the MOEWR regarding this bidding process; or
- (e) participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
- (f) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid; or
- (g) Any of its affiliates has been hired (or is proposed to be hired) by the MOEWR for the Contract implementation; or
- (h) would be providing Services, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
- (i) has a close business or family relationship with a professional staff of the Ministry of Energy and Water Resources (or of the grant agent, or of a subgrant agent) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation

process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the MOEWR throughout the procurement process and execution of the contract

- 4.3 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.7. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.
- 4.4 A Bidder that has been sanctioned by Federal Government of Somalia or the MOEWR in accordance with the above ITB 3.1, including in accordance shall be ineligible to be prequalified for, bid for, or be awarded a MOEWR contract or benefit from MOEWR contract, financially or otherwise, during such period of time as the ministry shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS**.
- 4.5 Bidders that are Government-owned enterprises or institutions in the MOEWR's Country may participate only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not dependent agencies of the government. To be eligible, a government-owned enterprise or institution shall establish to the MOEWR's satisfaction, through all relevant documents, including its Charter and other information the MOEWR may request, that it: (i) is a legal entity separate from the government (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.
- 4.6 A Bidder shall not be under suspension from bidding by the Ministry as the result of the operation of a Bid-Securing Declaration.
- 4.7 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Federal Government prohibits commercial relations with that country, provided that the Federal Government is satisfied that such exclusion does not preclude effective competition for the supply of Services or the contracting of works or services required; or (b) by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter



of the United Nations, the Federal Government of Somalia prohibits any import of Services or contracting of works or services from that country, or any payments to any country, person, or entity in that country.

4.8 A Bidder shall provide such evidence of eligibility satisfactory to the ministry, as the ministry shall reasonably request.

**5. Eligible Services and Related Services**

5.1 All the Services and Related Services to be provided under the Contract and financed by the ministry may have their origin in any country in accordance with Section V, Eligible Countries.

5.2 For purposes of this Article, the term “Services” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” include services such as insurance, installation, training, and initial maintenance.

5.3 The term “origin” means the country where the Services have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

**B. Contents of Bidding Document**

**6. Sections of Bidding Document**

6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB 8.

**PART 1 Bidding Procedures**

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

**PART 2 Supply Requirements**

- Section VII. Schedule of Requirements

**PART 3 Contract**

- Section VIII. General Conditions of Contract (GCC)
- Section IX. Special Conditions of Contract (SCC)
- Section X. Contract Forms

6.2 The Invitation for Bids issued by the ministry is not part of the Bidding Document.

6.3 Unless obtained directly from the ministry, the ministry is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Bid meeting (if any),

or Addenda to the Bidding Document in accordance with ITB 8. In case of any contradiction, documents obtained directly from the ministry shall prevail.

- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its Bid all information or documentation as is required by the Bidding Documents.
- 7. Clarification of Bidding Documents**
- 7.1 A Bidder requiring any clarification of the Bidding Document shall contact the Ministry in writing at the ministry's email address **specified in the BDS**. The Ministry will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids within a period **specified in the BDS**. The Ministry shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so **specified in the BDS**, the ministry shall also promptly publish its response at the web page **identified in the BDS**. Should the clarification result in changes to the essential elements of the Bidding Documents, the ministry shall amend the Bidding Documents following the procedure under ITB 8 and ITB 22.2.
- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of bids, the MOEWR may amend the Bidding Documents by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents from the ministry in accordance with ITB 6.3. The MOEWR shall also promptly publish the addendum on the MOEWR's web page in accordance with ITB 7.1.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the MOEWR may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB 22.2.

### C. Preparation of Bids

- 9. Cost of Bidding**
- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the MOEWR shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the MOEWR, shall be written in the language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.

**11. Documents  
Comprising the  
Bid**

- 11.1 The Bid shall comprise the following:
- (a) Letter of Bid in accordance with ITB 12;
  - (b) completed schedules , in accordance with ITB 12 and 14
  - (c) Bid Security, in accordance with ITB 19.1;
  - (d) alternative bids, if permissible, in accordance with ITB 13;
  - (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
  - (f) documentary evidence in accordance with ITB 17 establishing the Bidder's qualifications to perform the contract if its bid is accepted;
  - (g) documentary evidence in accordance with ITB 17 establishing the Bidder's eligibility to bid;
  - (h) documentary evidence in accordance with ITB 16, that the Services and Related Services to be provided by the Bidder are of eligible origin;
  - (i) documentary evidence in accordance with ITB 16 and 30, that the Services and Related Services conform to the Bidding Documents;
  - (j) any other document **required in the BDS.**
- 11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.
- 11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.

**12. Bid submission  
form and Price  
Schedules**

- 12.1. The Bid submission form and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information requested.

**13. Alternative Bids**

- 13.1. Unless otherwise **specified in the BDS**, alternative bids shall not be considered.

**14. Bid Prices and  
Discounts**

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

- 14.2 All items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Letter of Bid in accordance with ITB 12.1 shall be the total price of the bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and indicate the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, **unless otherwise specified in the BDS**. A bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB 29. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.6 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, **as specified in the BDS**.
- 14.7 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V, Eligible Countries. Similarly, the Bidder may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. Prices shall be entered in the following manner:
- (a) For Services manufactured in the Country:
    - (i) the price of the Services quoted EXW (ex-works, ex-factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of the Services;
    - (ii) any sales tax and other taxes which will be payable on the Services if the contract is awarded to the Bidder; and
    - (iii) the price for inland transportation, insurance, and other local services required to convey the Services to their final destination **specified in the BDS**.
  - (b) For Services manufactured outside the Country, to be imported:
    - (i) the price of the Services, quoted CIP named place of destination, in the Country, as **specified in the BDS**;
    - (ii) the price for inland transportation, insurance, and

other local services required to convey the Services from the named place of destination to their final destination **specified in the BDS;**

- (c) For Services manufactured outside of the country, already imported:
  - (i) the price of the Services, including the original import value of the Services; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Services already imported.
  - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Services already imported;
  - (iii) the price of the Services, obtained as the difference between (i) and (ii) above;
  - (iv) any sales and other taxes which will be payable on the Services if the contract is awarded to the Bidder; and
  - (v) the price for inland transportation, insurance, and other local services required to convey the Services from the named place of destination to their final destination **specified in the BDS.**
- (d) for Related Services, other than inland transportation and other services required to convey the Services to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
  - (i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

**15. Currencies of Bid and Payment** 15.1 The currency(ies) of the bid and the currency(ies) of payments shall be **as specified in the BDS.**

**16. Documents Establishing the Eligibility and Conformity of the Services and Related Services** 16.1 To establish the eligibility of the Services and Related Services in accordance with ITB 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.  
16.2 To establish the conformity of the Services and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Services conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.

- 16.3 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Services and Related Services, demonstrating substantial responsiveness of the Services and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 16.4 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Services during the period **specified in the BDS** following commencement of the use of the Services by the MOEWR.
- 16.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the MOEWR in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the MOEWR's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.

**17. Documents  
Establishing the  
Eligibility and  
Qualifications of  
the Bidder**

- 17.1 To establish Bidder's eligibility in accordance with ITB 4, Bidders shall complete the Letter of Bid, included in Section IV, Bidding Forms.
- 17.2 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the MOEWR's satisfaction:
  - (a) that, if **required in the BDS**, in case of a Bidder not doing business within the MOEWR's Country, the Bidder is or will be (if awarded the contract) represented by an Agent in the country equipped and able to carry out after sales services.
  - (b) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

**18. Period of  
Validity of Bids**

- 18.1. Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the MOEWR in accordance with ITB 22.1. A bid valid for a shorter period shall be rejected by the MOEWR as nonresponsive.
- 18.2. In exceptional circumstances, prior to the expiration of the bid validity period, the MOEWR may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Article 19, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB 18.3.
- 18.3. If the award is delayed by a period exceeding fifty-six (56) days beyond

the expiry of the initial bid validity, the Contract price shall be determined as follows:

- (a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.
- (b) In the case of adjustable price contracts, no adjustment shall be made.
- (c) In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.

## **19. Bid Security**

- 19.1. The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a bid security, as **specified in the BDS**, in original form and, in the case of a bid security. In the amount and currency **specified in the BDS**.
- 19.2. A Bid Securing Declaration shall use the form included in Section IV, Bidding Forms.
- 19.3. If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option :
  - (a) an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety company);
  - (b) an irrevocable letter of credit;
  - (c) a cashier's or certified cheque; or
  - (d) another security **specified in the BDS**,

from a reputable source from an eligible country. If the unconditional guarantee is issued by a financial institution located outside the MOEWR's Country, the issuing financial institution shall have a correspondent financial institution located in the MOEWR's Country to make it enforceable. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the MOEWR prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

- 19.4. If a Bid Security is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive Bid Security shall be rejected by the MOEWR as non-responsive.
- 19.5. If a Bid Security is specified pursuant to ITB 19.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the contract and furnishing the

Performance Security pursuant to ITB 42.

- 19.6. The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the contract and furnished the required performance security.
- 19.7. The Bid Security may be forfeited or the Bid Securing Declaration executed:
  - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or any extension thereto provided by the Bidder ; or
  - (b) if the successful Bidder fails to:
    - (i) sign the Contract in accordance with ITB41; or
    - (ii) furnish a performance security in accordance with ITB 42.
- 19.8. The bid security or Bid- Securing Declaration of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted into a legally enforceable JV at the time of bidding, the bid security or Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent referred to in ITB 4.1 and ITB 11.2.
- 19.9. If a bid security is **not required in the BDS**, pursuant to ITB 19.1, and
  - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or
  - (b) if the successful Bidder fails to: sign the Contract in accordance with ITB 41; or furnish a performance security in accordance with ITB 42;

the MOEWR may, **if provided for in the BDS**, declare the Bidder ineligible to be awarded a contract by the MOEWR for a period of time **as stated in the BDS**.

## **20. Format and Signing of Bid**

- 20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE." In addition, the Bidder shall submit copies of the bid, in the number **specified in the BDS** and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.
- 20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation **as specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must



be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid.

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

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

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

- 21.1. The Bidder shall enclose the original and all copies of the bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL”, “ALTERNATIVE” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 21.2. The inner and outer envelopes shall:
  - (a) bear the name and address of the Bidder;
  - (b) be addressed to the MOEWR in accordance with ITB 24.1;
  - (c) bear the specific identification of this bidding process indicated in ITB 1.1; and
  - (d) bear a warning not to open before the time and date for bid opening.
- 21.3. If all envelopes are not sealed and marked as required, the MOEWR will assume no responsibility for the misplacement or premature opening of the bid.

#### **22. Deadline for Submission of Bids**

- 22.1. Bids must be received by the MOEWR at the address and no later than the date and time **specified in the BDS. When so specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.
- 22.2. The MOEWR may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB 8, in which case all rights and obligations of the MOEWR and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

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

- 23.1. The MOEWR shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the MOEWR after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

#### **24. Withdrawal,**

- 24.1. A Bidder may withdraw, substitute, or modify its Bid after it has been

**Substitution, and  
Modification of  
Bids**

submitted by sending a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB 20.2, (except that withdrawal notices do not require copies ). The corresponding substitution or modification of the bid must accompany the respective written notice. All notices must be:

- (a) prepared and submitted in accordance with ITB 20 and 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “WITHDRAWAL,” “SUBSTITUTION,” or “MODIFICATION;” and
- (b) received by the MOEWR prior to the deadline prescribed for submission of bids, in accordance with ITB 22.

24.2. Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.

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

**25. Bid Opening**

25.1. Except as in the cases specified in ITB 23 and 24, the MOEWR shall publicly open and read out in accordance with ITB 25.3 all bids received by the deadline at the date, time and place **specified in the BDS** in the presence of Bidders’ designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1, shall be as **specified in the BDS**.

25.2. First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only bids that are opened and read out at Bid opening shall be considered further.

25.3. All other envelopes shall be opened one at a time, reading out: the

name of the Bidder and whether there is a modification; the total Bid Prices, including any discounts and alternative bids; the presence or absence of a Bid Security, if required; and any other details as the MOEWR may consider appropriate. Only discounts and alternative bids read out at Bid opening shall be considered for evaluation. The Letter of Bid and the Price Schedules are to be initialed by representatives of the MOEWR attending bid opening in the manner **specified in the BDS**. The MOEWR shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 25.1).

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

#### **E. Evaluation and Comparison of Bids**

- 26. Confidentiality**
- 26.1 Information relating to the evaluation of bids and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with the bidding process until information on Contract Award is communicated to all Bidders in accordance with ITB 40.
- 26.2 Any effort by a Bidder to influence the MOEWR in the evaluation or contract award decisions may result in the rejection of its Bid.
- 26.3 Notwithstanding ITB 26.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the MOEWR on any matter related to the bidding process, it should do so in writing.
- 27. Clarification of Bids**
- 27.1 To assist in the examination, evaluation, comparison of the bids, and qualification of the Bidders, the MOEWR may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and that is not in response to a request by the MOEWR shall not be considered. The MOEWR's request for clarification and the response shall be in writing. No change, including any voluntary increase or decrease, in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the MOEWR in the Evaluation of the bids, in accordance with ITB 31.
- 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the MOEWR's request for clarification, its bid may be rejected.
- 28. Deviations, Reservations,**
- 28.1 During the evaluation of bids, the following definitions apply:

**and Omissions**

- (a) “Deviation” is a departure from the requirements specified in the Bidding Documents;
- (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
- (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Documents

**29. Determination of Responsiveness**

- 29.1 The MOEWR’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 29.2 A substantially responsive Bid is one that meets the requirements of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
  - (a) if accepted, would
    - (i) affect in any substantial way the scope, quality, or performance of the Services and Related Services specified in the Contract; or
    - (ii) limit in any substantial way, inconsistent with the Bidding Documents, the MOEWR’s rights or the Bidder’s obligations under the Contract; or
  - (b) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 29.3 The MOEWR shall examine the technical aspects of the bid submitted in accordance with ITB 16 and ITB 17, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.
- 29.4 If a bid is not substantially responsive to the requirements of Bidding Documents, it shall be rejected by the MOEWR and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.

**30. Nonconformities, Errors and Omissions**

- 30.1 Provided that a Bid is substantially responsive, the MOEWR may waive any nonconformities in the Bid.
- 30.2 Provided that a bid is substantially responsive, the MOEWR may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the bid related to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

- 30.3 Provided that a bid is substantially responsive, the MOEWR shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component.
- 31. Correction of Arithmetical Errors**
- 31.1 Provided that the Bid is substantially responsive, the MOEWR shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total shall be corrected, unless in the opinion of the MOEWR there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;
  - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
  - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.
- 32. Conversion to Single Currency**
- 32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted in a single currency as **specified in the BDS**.
- 33. Margin of Preference**
- 33.1 **Unless otherwise specified in the BDS**, a margin of preference shall not apply.
- 34. Evaluation of Bids**
- 34.1 The MOEWR shall use the criteria and methodologies listed in this Article. No other evaluation criteria or methodologies shall be permitted.
- 34.2 To evaluate a Bid, the MOEWR shall consider the following:
- (a) evaluation will be done, as **specified in the BDS**; and the Bid Price as quoted in accordance with article 14;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 14.3;
  - (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;

- (e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;
- (f) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria;

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

34.4 The MOEWR's evaluation of a bid will exclude and not take into account:

- (a) in the case of Services manufactured in Somalia, sales and other similar taxes, which will be payable on the Services if a contract is awarded to the Bidder;
- (b) in the case of Services manufactured outside Somalia, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Services if the contract is awarded to the Bidder;
- (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.

34.5 The MOEWR's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Services and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise **specified in the BDS** from amongst those set out in Section III, Evaluation and Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITB 34.2 (f).

**35. Comparison of Bids**

35.1 The MOEWR shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 34.2 to determine the lowest evaluated bid. The comparison shall be on the basis of CIP (place of final destination) prices for imported Services and EXW prices, plus cost of inland transportation and insurance to place of destination, for Services manufactured within Somalia, together with prices for any required installation, training, commissioning and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported Services quoted CIP and sales and similar taxes levied in connection with the sale or delivery of Services.

**36. Qualification of the Bidder**

36.1 The MOEWR shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.

- 36.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.
- 36.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the MOEWR shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's qualifications to perform satisfactorily.
- 37. MOEWR's Right to Accept Any Bid, and to Reject Any or All Bids** 37.1 The MOEWR reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

#### **F. Award of Contract**

- 38. Award Criteria** 38.1 Subject to ITB 37.1, the MOEWR shall award the Contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 39. MOEWR's Right to Vary Quantities at Time of Award** 39.1 At the time the Contract is awarded, the MOEWR reserves the right to increase or decrease the quantity of Services and Related Services originally specified in Section VII, Schedule of Requirements, provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents.
- 40. Notification of Award** 40.1 Prior to the expiration of the period of bid validity, the MOEWR shall notify the successful Bidder, in writing, that its Bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that the MOEWR will pay the Service provider in consideration of the supply of Services (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). At the same time, the MOEWR shall also notify all other Bidders of the results of the bidding and shall publish in MOEWR Website the results identifying the bid and the following information:
- (i) name of each Bidder who submitted a Bid;
  - (ii) bid prices as read out at Bid Opening;
  - (iii) name and evaluated prices of each Bid that was evaluated;
  - (iv) name of bidders whose bids were rejected and the reasons for their rejection; and
  - (v) name of the successful Bidder, and the Price it offered, as well as the

duration and summary scope of the contract awarded.

40.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.

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

**41. Signing of Contract**

41.1 Promptly after notification, the MOEWR shall send the successful Bidder the Contract Agreement.

41.2 Within twenty-eight (28) days of receipt of the Contract Agreement, the successful Bidder shall sign, date, and return it to the MOEWR.

41.3 Notwithstanding ITB 41.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the MOEWR, to Somalia, or to the use of the products/Services, systems or services to be provided, where such export restrictions arise from trade regulations from a country supplying those products/Services, systems or services, the Bidder shall not be bound by its bid, always provided however, that the Bidder can demonstrate to the satisfaction of the MOEWR that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/Services, systems or services under the terms of the Contract.

**42. Performance Security**

42.1 Within twenty eight (28) days of the receipt of notification of award from the MOEWR, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, subject to ITB 34.5, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another Form acceptable to the MOEWR. If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the MOEWR. A foreign institution providing a bond shall have a correspondent financial institution located in the MOEWR's Country.

42.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the MOEWR may award the Contract to the next lowest evaluated Bidder, whose bid is substantially responsive and is determined by the MOEWR to be qualified to perform the Contract satisfactorily.



## Section II. Bid Data Sheet (BDS)

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

ITB Article Reference	A. General
ITB 1.1	The reference number of the Invitation for Bids is : <b>GFRS-MOEW /UNICEF/MP/ICB/001/6/21</b>
ITB 1.1	The client is: <b>Ministry of Energy and Water Resources</b>
ITB 1.1	The name of the NCB is: <b>GEOPHYSICAL SURVEY</b> The identification number of the NCB is: <b>GFRS-MOEW /UNICEF/MP/ICB/001/6/21</b>
ITB 2.1	The Fund is for: <b>Federal Government of Somalia -MOEW</b>
ITB 2.1	Financier: <b>UNICEF</b>
ITB 2.1	The name of the Projects are: <b>MOEW/UNICEF MICRO PLAN 2021</b>
ITB 4.1	Maximum number of members in the JV shall be: <b>No limit on the number of members in a JV.</b>
<b>B. Contents of Bidding Documents</b>	
ITB 7.1	For <b>Clarification of bid purposes</b> only, the MOEW's address is: Attention: <b>PROCUREMENT Office</b> Street Address: <b>CORSO SOMALIA ROAD, BONDERE DISTRICT</b> City: <b>MOGADISHU</b> Country: <b>SOMALIA</b> Electronic mail address: <a href="mailto:procurement@moewr.gov.so">procurement@moewr.gov.so</a> Requests for clarification should be received by the Employer no later than: <b>5 days from the date of invitation.</b>
ITB 7.1	Web page: <a href="http://www.moewr.gov.so">www.moewr.gov.so</a> <a href="http://www.Somalijob.com">www.Somalijob.com</a>
<b>C. Preparation of Bids</b>	
ITB 10.1	The language of the bid is: <b>English</b> All correspondence exchange shall be in <b>English</b> language.
ITB 13.1	Alternative Bids <b>shall not be</b> considered.
ITB 14.5	The prices quoted by the Bidder <b>shall not</b> be subject to adjustment during the

	performance of the Contract.
<b>ITB 14.6</b>	Prices quoted shall correspond at least to <b>100%</b> of the items specified.
<b>ITB 14.7</b>	The Incoterms edition is: <b>Incoterms 2010</b> .
<b>ITB 14.8 (b) (i) and (c) (v)</b>	Place of Destination: <b>MOEWR Headquarter, Mogadishu, Somalia</b>
<b>ITB 14.8 (a) (iii);(b)(ii) and (c)(v)</b>	“Final destination”: <b>MOEWR Headquarter, Mogadishu, Somalia</b>
<b>ITB 15.1</b>	The prices shall be quoted by the bidder in: <b>US Dollars</b> .
<b>ITB 16.4</b>	Period of time the Services are expected to be functioning (for the purpose of spare parts): <b>NA</b>
<b>ITB 17.2 (a)</b>	Manufacturer’s authorization is: <b>NA</b>
<b>ITB 17.2 (b)</b>	After sales service is: <b>Required</b> .
<b>ITB 18.1</b>	The bid validity period shall be <b>90</b> days.
<b>ITB 18.3 (a)</b>	The bid price shall be adjusted by the following factor(s): <b>NA</b>
<b>ITB 19.1</b>	<b>A Bid Security is not required.</b> The amount and currency of the bid security shall be <b>US \$ 1,000</b>
<b>ITB 19.3 (d)</b>	Other types of acceptable securities: <b>NA</b>
<b>TB 19.9</b>	If the Bidder incurs any of the actions prescribed in subparagraphs 19.9 (a) or (b) of this provision, the Employer will declare the Bidder ineligible to be awarded contracts by the MOEWR for a period of <b>2</b> years.
<b>ITB 20.1</b>	In addition to the original document of the bid, the number of copies is: <b>Two (1 indicated “Original and 1 Copy”)</b> .
<b>ITB 20.2</b>	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: <b>Authorization letter naming the person vested with the power of attorney clearly demonstrating the authority of the signatory to sign the bid otherwise the owner of the company should sign the bid and should provide an ID/passport in conformity with the legal registration/establishment documents.</b>
	<b>D. Submission and Opening of Bids</b>
<b>ITB 22.1</b>	For <b>bid submission purposes</b> only, the MOEWR’s address is: Attention: <b>PROCUREMENT Office</b> Street Address: <b>CORSO SOMALIA ROAD,BONDERE DISTRICT</b> City: <b>MOGADISHU</b> Country: <b>SOMALIA</b> <b>The deadline for bid submission is: 20 July 2021</b> Time: <b>10:00 am</b> Bidders <b>shall not have</b> the option of submitting their bids electronically and all

	bids must be submitted sealed labelling “do not open before the bid opening date and in the presence of the bid evaluation committee”
<b>ITB 25.1</b>	The bid opening shall take place at: At: <b>MOEWR PROCUREMENT Office</b> Street Address: <b>CORSO SOMALIA ROAD, BONDERE DISTRICT</b> City: <b>Mogadishu</b> Country: <b>Somalia</b> <b>The deadline for bid submission is: 20 July 2021</b> Time: <b>10:00 a.m.</b>
<b>ITB 25.3</b>	The Letter of Bid and Price Schedules shall be initialed by all representatives of the MOEWR conducting Bid opening and shall be numbered. <b>NA</b>
<b>E. Evaluation and Comparison of Bids</b>	
<b>ITB 32.1</b>	The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: <b>US Dollars</b> The source of exchange rate shall be: <b>Financial Times</b> The date for the exchange rate shall be: <b>Prevailing rates on the of the deadline date for submission of the bids.</b>
<b>ITB 33.1</b>	A margin of domestic preference <b>shall not</b> apply.
<b>ITB 34.6</b>	The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: <b>(a)</b> Deviation in Delivery schedule: <b>No.</b> <b>(b)</b> Deviation in payment schedule: <b>No.</b> <b>(c)</b> the cost of major replacement components, mandatory spare parts, and service: <b>NA</b> <b>(d)</b> the availability in the MOEWR’s Country of spare parts and after-sales services for the equipment offered in the bid <b>NA</b> <b>(e)</b> the projected operating and maintenance costs during the life of the equipment <b>No.</b> <b>(f)</b> the performance and productivity of the equipment offered; <b>NA</b>
<b>F. Award of Contract</b>	
<b>ITB 39.1</b>	The maximum percentage by which quantities may be increased is: <b>NA</b> The maximum percentage by which quantities may be decreased is: <b>NA</b>

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

This Section contains all the criteria that the MOEWR shall use to evaluate a bid and qualify the Bidders in accordance with ITB 34 and ITB 36, no other factors, methods or criteria shall be used.

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**2. Evaluation (ITB 34)**

**2.1. Evaluation Criteria (ITB 34.6)**

The MOEWR’s evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Article 14.8, one or more of the following factors as specified in ITB 34.2(f) and in BDS referring to ITB 34.6, using the following criteria and methodologies.

- a) Pre-evaluation criteria (Legal registration documents, Letter of intent in case of JV, Completeness of bidding documents)
- b) Deviation in payment schedule: Bidders shall state their bid price for the payment schedule outlined in the SCC. Bids shall be evaluated on the basis of this base price.
- c) Specific additional criteria: Responsiveness to the required technical specifications
- d) Financial Capability: The Bidder shall furnish documentary evidence that it meets the following financial requirement(s): **Original bank statement for the last 6 months of at least \$30,000 cash balance.**
- e) Experience and Technical Capacity: The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s):
  - a. **General relative experience of at least five years**
  - b. **At least three similar contracts with clients with similar size and complexity (Original copies may be requested at the time of post qualification visit).**
- f) **Personnel requirements (key positions only)**

POSITION	QUALIFICATIONS	TOTAL EXPERIENCE (Yrs)	IN SIMILAR WORKS(Yrs)

**g) Equipment requirements**

<b>EQUIPMENT TYPE AND CAPACITY</b>	<b>MINIMUM REQUIREMENTS NO.</b>

**2.2. Post qualification**

The MOEWR shall award contract to the Bidder that offers the lowest evaluated price and meets the post-qualification criteria (this Section III, Sub-Section ITB 36.1 Post-Qualification Requirements)

**3. Qualification (ITB 36)**

**3.1 Post-qualification Requirements (ITB 36.1)**

After determining the lowest-evaluated bid in accordance with ITB 35.1, the MOEWR shall carry out the post-qualification of the Bidder in accordance with ITB 36, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

- A team from the Ministry will visit the premises of the bidder before award and will verify the truth of the bidding documents. The team will verify the existence as per the bid document:
  - Personnel
  - Equipment
  - Experience
  - Financial capacity

# Section IV. Bidding Forms

## Table of Forms

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### Bidder Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

Date: *[insert date (as day, month and year) of Bid Submission]*

NCB No.: *[insert number of bidding process]*

Alternative No.: *[insert identification No if this is a Bid for an alternative]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each member : <i>[insert legal name of each member in JV]</i>
3. Bidder's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Bidder's year of registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Address in country of registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1. <input type="checkbox"/> In case of Government-owned enterprise or institution, in accordance with ITB 4.5 documents establishing: Legal and financial autonomy, Operation under commercial law, Establishing that the Bidder is not dependent agency of the MOEWR <input type="checkbox"/> Tax clearance and VAT registration certificate <input type="checkbox"/> Membership of Chamber of commerce <input type="checkbox"/> Bank statement <input type="checkbox"/> Sole agency certificate (if applicable) <input type="checkbox"/> Import registration (if applicable) <input type="checkbox"/> Others.....



**Form 2: Joint Venture Partner Information Form**

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Bidder and for each member of a Joint Venture]].*

Date: *[insert date (as day, month and year) of Bid Submission]*

NCB No.: *[insert number of bidding process]*

Alternative No.: *[insert identification No if this is a Bid for an alternative]*

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party country of registration: <i>[insert JV's party country of registration]</i>
4. JV's party year of registration: <i>[insert JV's party year of registration]</i>
5. Bidder's JV party's legal address in country of registration: <i>[insert JV's party legal address in country of registration]</i>
6. Bidder's JV party's authorized representative information Name: <i>[insert name of JV's party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status, in accordance with ITB 4.5.

### Form 3: Bid Submission Form

*The Bidder must prepare this form on stationery with its letterhead clearly showing the Bidder's complete name and address.*

*Note: All italicized text is for use in preparing these form and shall be deleted from the final products.*

Date: **[insert date (as day, month and year) of Bid Submission]**

Tender No.: **[insert number of bidding process]**

Invitation for Bid No.: **[insert identification]**

Alternative No.: **[insert identification No if this is a Bid for an alternative]**

To: **[insert complete name of MOEWR]**

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8)\_\_\_;
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Services: **[insert a brief description of the Services and Related Services]**;
- (c) The total price of our Bid, excluding any discounts offered in item (f) below is:  
  
In case of only one lot, total price of the Bid **[insert the total price of the bid in words and figures]**;
- (d) The discounts offered and the methodology for their application are:
  - (i) The discounts offered are: **[Specify in detail each discount offered.]**
  - (ii) Method of application of discounts: **[Specify in detail the method that shall be used to apply the discounts]**;
- (e) Our bid shall be valid for a period of **[specify the number of calendar days]** days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
- (g) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
- (h) We, including any of our subcontractors or Service providers for any part of the contract, have not been declared ineligible by the Federal Government of Somalia or the MOEWR, under the country laws or official regulations;

- (i) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;<sup>1</sup>
- (j) We have paid, or will pay the following commissions, gratuities, or fees with respect to the bidding process or execution of the Contract: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]**

Name of Recipient	Address	Reason	Amount

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

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

Name of the Bidder\* **[insert complete name of person signing the Bid]**

Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* **[insert complete name of person duly authorized to sign the Bid]**

Title of the person signing the Bid **[insert complete title of the person signing the Bid]**

Signature of the person named above **[insert signature of person whose name and capacity are shown above]**

Date signed **[insert date of signing]** day of **[insert month]**, **[insert year]**

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

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

### Forms for Equipment

<sup>1</sup> Bidder to use as appropriate

The Bidder shall provide adequate information for key equipment necessary for the performing the contract.

Type of Equipment*		
Equipment Information	Name of manufacturer,	Model
	Capacity*	Year of manufacture*
Current Status (Available/functioning or Not available/Not functioning):		Current location
Details of current commitments		
Source	Indicate source of the equipment <input type="checkbox"/> Owned <input type="checkbox"/> Rented <input type="checkbox"/> Leased <input type="checkbox"/> Specially manufactured	

The following information shall be provided only for equipment not owned by the Bidder.

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

**NB:** Fill one form for each key equipment

**Resume of Proposed Personnel**

The Bidder shall provide all the information requested below for its key employees intended to this bid:

Position*				
Personnel information	Name *		Date of birth	
	Professional qualifications			
Employment information	Name of employer			
Years	From		To	
Address of employer				
Telephone			Contact (manager / personnel officer)	
E-mail				
Job title			Years present with this employer	
Key duties (relevant only)				

**NB:** Fill one form for each key staff

*The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the List of Services and Related Services specified by the MOEWR in the Schedule of Requirements.*

**Price Schedule Form**

The bidder shall fill in these price schedule forms in accordance with the instructions indicated. The list of line items in column 1 of the Price Schedules shall coincide with the list of services and related services form.

Date: \_\_\_\_\_ Tender No: **P179**  
 Alternative No: \_\_\_\_\_  
 Page N° \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7	8
<b>Line Item N°</b>	<b>Description of Services</b>	<b>Delivery Date</b>	<b>Quantity</b>	<b>Unit price</b>	<b>Unit price</b>	<b>Unit price</b>	<b>Total (5+6+7)</b>
<i>[insert number of the item]</i>	<i>[insert name of services]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units]</i>				
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
11			1				
12			1				

**Price Schedule Form**

The bidder shall fill in these price schedule forms in accordance with the instructions indicated. The list of line items in column 1 of the Price Schedules shall coincide with the list of services and related services form.

Date: \_\_\_\_\_ Tender No: **P179**  
 Alternative No: \_\_\_\_\_  
 Page N° \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7	8
<b>Line Item N°</b>	<b>Description of Services</b>	<b>Delivery Date</b>	<b>Quantity</b>	<b>Unit price</b>	<b>Unit price</b>	<b>Unit price</b>	<b>Total (5+6+7)</b>
13							
14							
15							
16							
17							
18							
19							
<b>Total</b>							



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# **PART 3 – Contract**

## **Section VIII. General Conditions of Contract**

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## Section VIII. General Conditions of Contract

### 1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “MOEWR” means the Ministry of E Energy and Water Resources
- (b) “Contract” means the Contract Agreement entered into between the MOEWR and the Service provider, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
- (d) “Contract Price” means the price payable to the Service provider as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (e) “Day” means calendar day.
- (f) “Completion” means the fulfillment of the Related Services by the Service provider in accordance with the terms and conditions set forth in the Contract.
- (g) “GCC” means the General Conditions of Contract.
- (h) “Services” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Service provider is required to supply to the MOEWR under the Contract.
- (i) “MOEWR’s Country” is Somalia.
- (j) “MOEWR” is the entity purchasing the Services and Related Services, as specified in the **SCC**.
- (k) “Related Services” means the services incidental to the supply of the Services, such as insurance, installation, training and initial maintenance and other such obligations of the Service provider under the Contract.
- (l) “SCC” means the Special Conditions of Contract.
- (m) “Subcontractor” means any person, private or government entity, or a combination of the above, to whom any part of the Services to be provided or execution of any part of the Related Services is subcontracted by the Service provider.

- (n) “Service provider” means the person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the MOEWR and is named as such in the Contract Agreement.

**2. Contract Documents**

- .1 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

**3. Corrupt and Fraudulent Practices**

- 3.1 The MOEWR requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in section 4 of this bid document.
- 3.2 The MOEWR requires the Service provider to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

**4. Interpretation**

- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
  - (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
  - (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the SCC and published by the International Chamber of Commerce in Paris, France.
- 4.3 Entire Agreement

The Contract constitutes the entire agreement between the MOEWR and the Service provider and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.
- 4.4 Amendment
- 4.5 No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.
- 4.6 Nonwaiver
  - (a) Subject to GCC Sub-Article 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting

of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.7 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

**5. Language**

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Service provider and the MOEWR, shall be written in the language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.

5.2 The Service provider shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Service provider.

**6. Joint Venture, Consortium or Association**

6.1 If the Service provider is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the MOEWR for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the MOEWR.

**7. Eligibility**

7.1 Not Applicable

**8. Notices**

8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.

8.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

**9. Governing Law**

9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Federal Government of Somalia, unless otherwise specified in the SCC.

**10 Settlement of**

10.1 The MOEWR and the Service provider shall make every effort to

**Disputes**

resolve amicably by direct informal negotiation of any disagreement or dispute arising between them under or in connection with the Contract.

10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the MOEWR or the Service provider may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Article shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Services under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC.**

10.3 Notwithstanding any reference to arbitration herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the MOEWR shall pay the Service provider any monies due the Service provider.

**11. Inspections and Audit by the MOEWR**

11.1 The Service provider shall keep, and shall make all reasonable efforts to cause its Subcontractors to keep, accurate and systematic accounts and records in respect of the Services in such form and details as will clearly identify relevant time changes and costs.

11.2 The Service provider shall permit, and shall cause its Subcontractors to permit, the MOEWR and/or persons appointed by the MOEWR to inspect the Service provider's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the MOEWR if requested by the MOEWR. The Service provider's and its Subcontractors and consultants' attention is drawn to Fraud and Corruption section, which provides, inter alia, that acts intended to materially impede the exercise of the MOEWR's inspection and audit rights provided for under this Sub-Article 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the MOEWR's prevailing sanctions procedures)

**12. Scope of Supply**

12.1 The Services and Related Services to be provided shall be as specified in the Schedule of Requirements.

**13. Delivery and Documents**

13.1 Subject to GCC Sub-Article 33.1, the Delivery of the Services and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be

furnished by the Service provider are specified in the SCC.

- |  |      |  |
|--|------|--|
| <b>14. Service provider's Responsibilities</b> | 14.1 | The Service provider shall supply all the Services and Related Services included in the Scope of Supply in accordance with GCC Article 12, and the Delivery and Completion Schedule, as per GCC Article 13.  |
| <b>15 Contract Price</b>                       | 15.1 | Prices charged by the Service provider for the Services provided and the Related Services performed under the Contract shall not vary from the prices quoted by the Service provider in its bid, with the exception of any price adjustments authorized in the SCC.  |
| <b>16. Terms of Payment</b>                    | 16.1 | The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC.  |
|  | 16.2 | The Service provider's request for payment shall be made to the MOEWR in writing, accompanied by invoices describing, as appropriate, the Services delivered and Related Services performed, and by the documents submitted pursuant to GCC Article 13 and upon fulfillment of all other obligations stipulated in the Contract. |
|  | 16.3 | Payments shall be made promptly by the MOEWR, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Service provider, and after the MOEWR has accepted it.  |
|  | 16.4 | The currencies in which payments shall be made to the Service provider under this Contract shall be those in which the bid price is expressed.   |
| <b>17. Taxes and Duties</b>                    | 17.1 | For Services manufactured outside the Country, the Service provider shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Country.  |
|  | 17.2 | For Services Manufactured within the country, the Service provider shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Services to the MOEWR.   |
|  | 17.3 | If any tax exemptions, reductions, allowances or privileges may be available to the Service provider in the Country, the MOEWR shall use its best efforts to enable the Service provider to benefit from any such tax savings to the maximum allowable extent.   |
| <b>18. Performance Security</b>                | 18.1 | If required as specified in the SCC, the Service provider shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the SCC.   |
|  | 18.2 | The proceeds of the Performance Security shall be payable to the MOEWR as compensation for any loss resulting from the Service provider's failure to complete its obligations under the Contract.  |

- 18.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the MOEWR; and shall be in one of the format stipulated by the MOEWR in the SCC, or in another format acceptable to the MOEWR.
- 18.4 The Performance Security shall be discharged by the MOEWR and returned to the Service provider not later than twenty-eight (28) days following the date of Completion of the Service provider's performance obligations under the Contract for **a period of 3 months**, including any warranty obligations, unless specified otherwise in the SCC.

#### **19. Copyright**

- 19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the MOEWR by the Service provider herein shall remain vested in the Service provider, or, if they are furnished to the MOEWR directly or through the Service provider by any third party, including Service providers of materials, the copyright in such materials shall remain vested in such third party

#### **20. Confidential Information**

- 20.1 The MOEWR and the Service provider shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Service provider may furnish to its Subcontractor such documents, data, and other information it receives from the MOEWR to the extent required for the Subcontractor to perform its work under the Contract, in which event the Service provider shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Service provider under GCC Article 20.
- 20.2 The MOEWR shall not use such documents, data, and other information received from the Service provider for any purposes unrelated to the contract. Similarly, the Service provider shall not use such documents, data, and other information received from the MOEWR for any purpose other than the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Articles 20.1 and 20.2 above, however, shall not apply to information that:
- (a) the MOEWR or Service provider need to share with the MOEWR or other institutions participating in the financing of the activity;
  - (b) now or hereafter enters the public domain through no fault of that party;
  - (c) can be proven to have been possessed by that party at the time



of disclosure and which was not previously obtained, directly or indirectly, from the other party; or

- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Article 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Article 20 shall survive completion or termination, for whatever reason, of the Contract.

**21. Subcontracting**

21.1 The Service provider shall notify the MOEWR in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Service provider from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Articles 3 and 7.

**22. Specifications and Standards**

22.1 Technical Specifications and Drawings

- (a) The Services and Related Services provided under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Services' country of origin.

- (b) The Service provider shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the MOEWR, by giving a notice of such disclaimer to the MOEWR.

- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the MOEWR and shall be treated in accordance with GCC Article 33.

**23. Packing and Documents**

23.1 The Service provider shall provide such packing of the Services as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the

Services' final destination and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the **SCC**, and in any other instructions ordered by the MOEWR.

#### **24. Insurance**

24.1 Unless otherwise specified in the **SCC**, the Services provided under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the **SCC**.

#### **25. Transportation and Incidental Services**

25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Services shall be in accordance with the specified Incoterms.

25.2 The Service provider may be required to provide any or all of the following services, including additional services, if any, **specified in SCC**:

- (a) performance or supervision of on-site assembly and/or start-up of the provided Services;
- (b) furnishing of tools required for assembly and/or maintenance of the provided Services;
- (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the provided Services;
- (d) performance or supervision or maintenance and/or repair of the provided Services, for a period of time agreed by the parties, provided that this service shall not relieve the Service provider of any warranty obligations under this Contract; and
- (e) training of the MOEWR's personnel, at the Service provider's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the provided Services.

25.3 Prices charged by the Service provider for incidental services, if not included in the Contract Price for the Services, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Service provider for similar services

#### **27. Liquidated Damages**

27.1 Except as provided under GCC Article 32, if the Service provider fails to deliver any or all of the Services by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the MOEWR may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in

the SCC of the delivered price of the delayed Services or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the MOEWR may terminate the Contract pursuant to GCC Article 35.

**29. Patent Indemnity**

29.1 The Service provider shall, subject to the MOEWR's compliance with GCC Sub-Article 29.2, indemnify and hold harmless the MOEWR and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the MOEWR may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Services by the Service provider or the use of the Services in the country where the Site is located; and

Such indemnity shall not cover any use of the Services or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Services or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not provided by the Service provider, pursuant to the Contract.

29.2 If any proceedings are brought or any claim is made against the MOEWR arising out of the matters referred to in GCC Sub-Article 29.1, the MOEWR shall promptly give the Service provider a notice thereof, and the Service provider may at its own expense and in the MOEWR's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

29.3 If the Service provider fails to notify the MOEWR within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the MOEWR shall be free to conduct the same on its own behalf.

29.4 The MOEWR shall, at the Service provider's request, afford all available assistance to the Service provider in conducting such proceedings or claim, and shall be reimbursed by the Service provider for all reasonable expenses incurred in so doing.

29.5 The MOEWR shall indemnify and hold harmless the Service provider and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Service provider

may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the MOEWR.

**30 Limitation of Liability**

- 30.1 Except in cases of criminal negligence or willful misconduct,
- (a) the Service provider shall not be liable to the MOEWR, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Service provider to pay liquidated damages to the MOEWR and
  - (b) the aggregate liability of the Service provider to the MOEWR, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Service provider to indemnify the MOEWR with respect to patent infringement

**31. Change in Laws and Regulations**

- 31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the country that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Service provider has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Article 15.

**32. Force Majeure**

- 32.1 The Service provider shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this article, “Force Majeure” means an event or situation beyond the control of the Service provider that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Service provider. Such events may include, but not be limited to, acts of the MOEWR in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 32.3 If a Force Majeure situation arises, the Service provider shall promptly notify the MOEWR in writing of such condition and the

cause thereof. Unless otherwise directed by the MOEWR in writing, the Service provider shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**33. Change Orders and Contract Amendments**

33.1 The MOEWR may at any time order the Service provider through notice in accordance GCC article 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Services to be furnished under the Contract are to be specifically manufactured for the MOEWR;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Service provider.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Service provider's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Service provider for adjustment under this Article must be asserted within twenty-eight (28) days from the date of the Service provider's receipt of the MOEWR's change order.

33.3 Prices to be charged by the Service provider for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Service provider for similar services.

33.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

**34. Extensions of Time**

34.1 If at any time during performance of the Contract, the Service provider or its subcontractors should encounter conditions impeding timely delivery of the Services or completion of Related Services pursuant to GCC Article 13, the Service provider shall promptly notify the MOEWR in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Service provider's notice, the MOEWR shall evaluate the situation and may at its discretion extend the Service provider's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Article 32, a delay by the Service provider in the performance of its Delivery

and Completion obligations shall render the Service provider liable to the imposition of liquidated damages pursuant to GCC Article 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Article 34.1.

## **35. Termination**

### **35.1 Termination for Default**

- (a) The MOEWR, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Service provider, may terminate the Contract in whole or in part:
  - (i) if the Service provider fails to deliver any or all of the Services within the period specified in the Contract, or within any extension thereof granted by the MOEWR pursuant to GCC Article 34;
  - (ii) if the Service provider fails to perform any other obligation under the Contract; or
  - (iii) if the Service provider, in the judgment of the MOEWR has engaged in fraud and corruption, as defined in GCC Article 3, in competing for or in executing the Contract.
- (b) In the event the MOEWR terminates the Contract in whole or in part, pursuant to GCC Article 35.1(a), the MOEWR may procure, upon such terms and in such manner as it deems appropriate, Services or Related Services similar to those undelivered or not performed, and the Service provider shall be liable to the MOEWR for any additional costs for such similar Services or Related Services. However, the Service provider shall continue performance of the Contract to the extent not terminated.

### **35.2 Termination for Insolvency.**

- (a) The MOEWR may at any time terminate the Contract by giving notice to the Service provider if the Service provider becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Service provider, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the MOEWR

### **35.3 Termination for Convenience.**

- (a) The MOEWR, by notice sent to the Service provider, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the MOEWR's convenience, the extent to which performance of the Service provider under the Contract is terminated, and the date upon which such termination

becomes effective.

- (b) The Services that are complete and ready for shipment within twenty-eight (28) days after the Service provider's receipt of notice of termination shall be accepted by the MOEWR at the Contract terms and prices. For the remaining Services, the MOEWR may elect:
  - (i) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Service provider an agreed amount for partially completed Services and Related Services and for materials and parts previously procured by the Service provider.

### **36. Assignment**

- 36.1 Neither the MOEWR nor the Service provider shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

## Section IX. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>GCC 1.1(i)</b>	The MOEWR's country is: <b>Somalia</b>
<b>GCC 1.1(j)</b>	The client is: <b>Ministry of Energy and Water Resources</b>
<b>GCC 1.1 (o)</b>	The Final Destination(s) is: <b>MOEWR Headquarter, Somalia</b>
<b>GCC 4.2 (a)</b>	The meaning of the trade terms shall be as prescribed by Incoterms.
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be <b>2010</b>
<b>GCC 5.1</b>	The language shall be: <b>English</b>
<b>GCC 8.1</b>	For <b>notices</b> , the MOEWR's address shall be:  <b>MOEWR</b>  Attention: <b>PROCUREMENT Office</b> Street Address: <b>CORSO SOMALIA ROAD, BONDERE DISTRICT</b> City: <b>Mogadishu</b> Country: <b>Somalia</b> Electronic mail address: <a href="mailto:procurement@moewr.gov.so">procurement@moewr.gov.so</a>
<b>GCC 9.1</b>	The governing law shall be the law of: <b>Federal Government of Somalia's Public Procurement &amp; Concession's law#22</b>
<b>GCC 10.2</b>	The rules of procedure for arbitration proceedings pursuant to GCC Article 10.2 shall be as follows:  <i>(a) Contract with foreign Service provider:</i>  Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.  <i>(b) Contracts with Service provider national of the country:</i>  In the case of a dispute between the MOEWR and a Service provider who is a national of the country, the dispute shall be referred to arbitration in accordance with the laws of the country.
<b>GCC 15.1</b>	The prices charged for the Services provided and the related Services performed <b>shall not</b> be adjustable.
<b>GCC 16.1</b>	GCC 16.1—The method and conditions of payment to be made to the



	<p>Service provider under this Contract shall be as follows:</p> <p><b>Payment for Services provided from abroad:</b></p> <p>(i) <b>Advance Payment:</b> Not Applicable</p> <p>(ii) <b>On Shipment:</b> Not applicable</p> <p>(iii) <b>On Acceptance:</b> One hundred (100) percent of the Contract Price shall be paid upon delivery and acceptance supported by the acceptance certificate issued by the MOEWR.</p> <p><b>Payment for Services and Services provided from within the MOEWR's country:</b></p> <p>(i) <b>Advance Payment:</b> Not Applicable</p> <p>(ii) <b>On Delivery:</b> One hundred (100) percent of the Contract Price shall be paid upon delivery and acceptance.</p> <p>(iii) <b>On Acceptance:</b> Refer (ii)</p>
<b>GCC 16.5</b>	Interest rates not Applicable
<b>GCC 18.1</b>	<b>A Performance Security is not applicable in this case.</b>
<b>GCC 18.3</b>	The Performance Security is not required
<b>GCC 24.1</b>	The insurance coverage shall be as specified in the <b>Incoterms 2010</b> .
<b>GCC 25.1</b>	Responsibility for transportation of the Services shall be as specified in the Incoterms.
<b>GCC 26.1</b>	The inspections and tests shall be: <b>Checking the conformity to the required specifications</b>
<b>GCC 26.2</b>	The Inspections and tests shall be conducted at: <b>MOEWR Headquarter</b>
<b>GCC 27.1</b>	The liquidated damage shall be: <b>Not applicable</b>
<b>GCC 27.1</b>	The maximum amount of liquidated damages shall be: <b>Not applicalbe</b>
<b>GCC 28.3</b>	The period of validity of the Warranty shall be: <b>Not Applicable</b>
<b>GCC 28.5</b>	The period for repair or replacement shall be: <b>Immediate</b>

# Section X. Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

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## Contract Agreement

*[The successful Bidder shall fill in this form in accordance with the instructions indicated]*

THIS AGREEMENT made

the *[ insert: **number** ]* day of *[ insert: **month** ]*, *[ insert: **year** ]*.

BETWEEN

- (1) Ministry of Energy and Water Resources having its principal place of business at Corso Somalia Road, Bondere, Mogadishu (hereinafter called “the MOEWR”), of the one part, and
- (2) *[ insert name of Service provider ]*, a corporation incorporated under the laws of *[ insert: country of Service provider ]* and having its principal place of business at *[ insert: address of Service provider ]* (hereinafter called “the Service provider”), of the other part :

WHEREAS the MOEWR invited bids for certain Services and ancillary services, viz., *[insert brief description of Services and Services]* and has accepted a Bid by the Service provider for the supply of those Services and Services

The MOEWR and the Service provider agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
  - (a) the Letter of Acceptance
  - (b) the Letter of Bid
  - (c) the Addenda Nos. \_\_\_\_\_ (if any)
  - (d) Special Conditions of Contract
  - (e) General Conditions of Contract
  - (f) the Specification (including Schedule of Requirements and Technical Specifications)
  - (g) the completed Schedules (including Price Schedules)
  - (h) any other document listed in GCC as forming part of the Contract
3. In consideration of the payments to be made by the MOEWR to the Service provider as specified in this Agreement, the Service provider hereby covenants with the MOEWR to

provide the Services and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The MOEWR hereby covenants to pay the Service provider in consideration of the provision of the Services and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of *[insert the name of the Contract governing law country]* on the day, month and year indicated above.

For and on behalf of the MOEWR

Signed: *[insert signature]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[insert identification of official witness]*

For and on behalf of the Service provider

Signed: *[insert signature of authorized representative(s) of the Service provider]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[ insert identification of official witness]*

