REQUEST FOR PROPOSAL

Date of issue:	19th November 2026
Reference no.:	11-SPREAD-2026-001
Contract title:	CONSTRUCTION AND INSTALLATION OF FISH COLD ROOM
Closing date:	3rd December 2026
Contracting Authority:	TUPADO tenders@tupado.org

TURKANA PASTORALIST DEVELOPMENT ORGANIZATION INVITES CANDIDATES TO SUBMIT A PROPOSAL FOR CONSTRUCTION AND INSTALLATION OF FISH COLD ROOM IN LOWARENGAK LAKE ZONE WARD, TURKANA NORTH SUB-COUNTY, TURKANA COUNTY.

Dear Sir/Madam,

The construction and installation of fish cold room is required for the preservation and temporary storage of fresh fish, maintaining fish quality and freshness while reducing post-harvest losses. The facility will enable fishers and fish value-chain actors to safely store their catch before transportation and sale, thereby improving the quality, marketability, and value of fresh fish, The intervention supported by EU.
Please find enclosed the following documents which constitute the Request for Proposal:

A – Instructions

Annex 1: Technical Specifications and Requirements
Annex 2: Design Documents and Drawings
Annex 3: Proposal Submission Form (to be completed by the Candidate)
Annex 4: General Terms and Conditions for Works Contracts – Ver3 2020
Annex 5: Code of Conduct for Contractors

If this document is a PDF format, upon request, a complete copy of the above documents can be forwarded in a WORD format for electronic completion. It is forbidden to make alterations to the text.

We would be grateful if you inform us by email of your intention to submit a proposal.

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INSTRUCTIONS

In submitting a proposal, the Candidate accepts in full and without restriction the special and general conditions including annexes governing this Contract as the sole basis of this procedure, whatever his own conditions of services may be, which he hereby waives. The Candidates are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this Request for Proposal.

A.1. Scope of works

The Works required by the Contracting Authority are described in the Technical Specifications in Annex 1.

The Candidate bears sole liability for examining with appropriate care the Request for Proposal, including those design documents available for inspection, and for obtaining reliable information with respect to any and all conditions and obligations that may in any way affect the amount or nature of the proposal or the execution of the Works. In the event that the Candidate is successful, no claim for alteration of the proposal amount will be entertained on the grounds of errors or omissions in the obligations of the Candidate described above.

A.2. Cost of proposal

The Candidate shall bear all costs associated with the preparation and submission of his proposal and the Contracting Authority is not responsible or liable for these costs, regardless of the conduct or outcome of the process.

A.3. Contractual conditions

The terms and conditions of the Contract which will be entered into between the Contracting Authority and the selected Candidate will be those contained in the Contract together with the General Terms and Conditions for Works Contracts – Ver3 2020 attached as annexes to this Request for Proposal.

A.4. Eligibility and qualification requirements

Candidates are not eligible to participate in this procedure if they are in one of the situations listed in article 59 of the General Terms and Conditions for Works Contracts – Ver3 2020.

Candidates shall in the Proposal Submission Form (Annex 3) attest that they meet the above eligibility criteria. If required by the Contracting Authority, the Candidate whose proposal is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility.

As a rule, the timely arrival of a proposal with the Contracting Authority is the Candidate's responsibility. Irrespective of the reason, proposals arriving after the deadline for the submission of proposals, will be considered late and thus rejected.

Candidates are also requested to certify that they comply with the Code of Conduct for Contractors (Annex 5).

A.5. Exclusion from award of contracts

Contracts may not be awarded to Candidates who, during this procedure:

(a) are subject to conflict of interest
(b) are guilty of misrepresentation in supplying the information required by the Contracting Authority as a condition of participation in the Contract procedure or fail to supply this information.

A.6. Documents comprising the Request for Proposal

The Candidate shall complete and submit the following documents with his/her proposal:

a. Proposal Submission Form (Annex 3) duly completed and signed by the Candidate.
b. Company profile highlighting the Company's experience in the specific field of the Works and specific experience in the country or region where the Works are to be performed.

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c. CV's of key-personnel to work under this Works contract.
d. A financial statement on the company
e. Official document proving that the person signing on behalf of the Construction Company is duly authorised to do so.

and any other material and information which should be provided and made known to the Contracting Authority.

The proposal and all correspondence and documents related to the Request for Proposal exchanged by the Candidate and the Contracting Authority must be written in the language of the procedure, which is English.

A.7. Financial Proposal

The Financial Proposal shall be presented as an amount in Kenya Shillings (KES) in the Proposal Submission Form in Annex 3. The remuneration of the Contractor under the Contract will be on a global basis. The financial proposal must be presented as a global price and be submitted using the table in the Proposal Submission Form.

The amounts entered in the Bill of Quantities will be used for calculating payments and interim payments and for valuing variations.

The Candidate will be deemed to have taken full account of all requirements and obligations, whether expressed or implied, covered by all parts of this Request for Proposal and to have priced the items in the Bill of Quantities accordingly. The amount must therefore include for all incidental and contingent expenses and risks of every kind necessary to construct, complete and maintain the whole of the Works in accordance with the Contract. Unless separate items are provided in the Bill of Quantities, rates and sums include all costs involved in the various items in the Bill of Quantities. The item descriptions given in the Bill of Quantities will in no way limit the Contractor's obligations under the Contract to provide all the works described elsewhere. Notwithstanding any limits which may be implied by the wording of individual items, the amounts entered will be deemed to be works that are complete in every respect.

VAT and/or any sales tax applicable to the purchase of works shall be indicated separately in the proposal

A.8. Site visit

The Candidate is advised to visit and examine the site of the works and its surroundings for the purpose of assessing, at his own responsibility, expense and risk, factors necessary for the preparation of his proposal. The Candidate shall arrange with the Contracting Authority the granting of permission to enter upon the site, for the Candidate's individual inspections.

A.9. Laws of country of works' execution

By submitting his/her proposal the Candidate is deemed to have knowledge of and to have taken into consideration all relevant laws, acts and regulations of Kenya that may in any way affect or govern the operations and activities covered by the proposal and the resulting Contract.

A.10. Validity

Proposals shall remain valid and open for acceptance for 90 days after the closing date.

A.11. Submission of proposals and closing date

Proposals must be received at the address mentioned on the front-page email not later than the closing date and time specified on the front page.

A.12. Evaluation of proposal

The evaluation method will be the quality and cost-based selection. A two-stage procedure shall be utilised in evaluating the Proposals: a technical evaluation and a financial evaluation.

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Proposals will be ranked according to their combined technical (*St*) and financial (*Sf*) scores.

- Maximum technical score is 70 %
- Maximum financial score is 30%

MANDATORY REQUIREMENTS/ DOCUMENTS		**Marks**	
No.	**Description**	**PASS**	**FAIL**
1	Company Registration Certificate		
2	CR12		
3	Valid business permit		
4	Registration with NCA (NCA 8 and above), Valid •Mechanical works •Building works •Electrical works		
5	PIN certificate (Obligation; VAT & Income Tax)		
6	Valid tax Compliance Certificate		
7	Copy of ID/ Passport of the directors		
8	Fully filled BOQ in the provided format		
9	Bank Statements for the last six Months- Signed and stamped by bank		
	TOTAL		

1) Technical Evaluation (Maximum 70%)

TECHNICAL RATING			Marks	
No.	Description	Key areas to consider	Maximum	Awarded
1	Company Profile – with verifiable physical location / address	Brief company introductory statement with verifiable office location and postal address.	5	
2	Technical proposal	At least two-pager technical proposal explaining how the contractor will undertake the works.	20	
3	A brief Statement detailing contractors' proposal on how he/she will ensure community engagement during the project's execution with Proposed work schedule and	Provide work areas or sections to consider hiring local casual workers to the extent possible • Numbers of local casuals	10	

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	projected completion timeline	to be hired in those work areas stated above **5mks** • Provide the local materials to be sourced under the approval of the technical personnel **5mks**		
4	List of Key Equipment – Owned / lease agreement	Lease agreements, purchase receipts, logbooks Each x 1 mks	5	
5.	Evidence of Past Similar Works - Completion certificates, contracts, recommendation letters (general)	Must annex or attach at least 5 previous works in form of; certificates of successful completion, executed local purchase orders, or other related information and reference from organizations worked within the past three years 5x3mks	15	
6	CVS for key staff	Project engineer - 2 Foreman - 2 Refrigeration technician - 3 Artisans –1 Electrician - 2	10	
7	Detailed works schedule / program of works	A gant chart indicating the timelines for the works execution	5	
	TOTAL (St)		**70**	

Only bidders with technical score of 49% and above will be considered for financial evaluation

2) Financial evaluation (Maximum 30%)

Each proposal shall be given a financial score. The lowest Financial Proposal (Fm) will be given a financial score (Sf) of 100 points. The formula for determining the financial scores shall be the following:

Sf = 100 x Fm/F, in which
Sf is the financial score
Fm is the lowest price and
F is the price of the proposal under evaluation

Substantial responsiveness, technical responsiveness and correction of errors

The Contracting Authority will determine whether the proposals meet the eligibility requirements, have been properly signed, are substantially responsive to the Request for Proposal, have any material errors in computation, and are otherwise generally in order. The Contracting Authority will also proceed with a summary examination of the technical qualities of each proposal classifying them as technically responsive or non-responsive. If a proposal is not substantially responsive i.e. it contains material deviations from or reservations to the terms, conditions and specifications of the Request for Proposal, and/or is technically non-responsive, it shall not be considered further, unless the Candidate having made the non-responsive proposal is authorized by the Contracting Authority to re-submit immediately a substantially and technically responsive proposal.

Proposals determined to be substantially responsive and technically responsive will be checked by the Contracting Authority for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. If a Candidate refuses to accept the correction, his proposal will be rejected.

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Negotiations
The Contracting Authority reserves the right to contact the Candidates having submitted proposals determined to be substantially and technically responsive, in order to propose negotiation of the terms of such proposals. Negotiations will not entail any substantial deviation to the terms and conditions of the Request for Proposal, but shall have the purpose of obtaining from the Candidates better conditions in terms of technical quality, implementation periods, payment conditions, etc.

Negotiations may however have the purpose of reducing the scope of the Works or revising other terms of the Contract in order to reduce the proposed remuneration when the proposed remunerations exceed the available budget.

A.13. Award criteria
The Contracting Authority will award the Contract to the Candidate who appears to have the capability and resources to carry out the Contract effectively, which has been determined to be substantially responsive to the documents of the Request for Proposal and which has obtained the highest overall score.

A.14. (Option: Amendments to the General Terms and Conditions for Works Contracts – Ver3 2020)

A.15. Signature and entry into force of the Contract
Prior to the expiration of the period of the validity of the proposal, the Contracting Authority will inform the successful Candidate in writing that his/her proposal has been accepted and inform the unsuccessful Candidates in writing about the result of the evaluation process.

The Contracting Authority and the successful candidate shall in cooperation prepare all documents listed in the Draft Contract, in order to include therein all details of the successful proposal. Within **7** days of notification of the award of the Contract, the successful Candidate shall submit to the Contracting Authority, for its consent, a final Programme of Implementation.

Within **7** days of receipt of the Contract, not yet signed by the Contracting Authority, the successful Candidate must sign and date the Contract and return it to the Contracting Authority. On signing the Contract the successful Candidate will become the Contractor and the Contract will enter into force once signed by the Contracting Authority.

If the successful Candidate fails to sign and return the Contract (Option: and the Performance Guarantee) within the days stipulated, the Contracting Authority may consider the acceptance of the proposal to be cancelled without prejudice to the Contracting Authority's right to (Option: seize the Tender Guarantee), claim compensation or pursue any other remedy in respect of such failure, and the successful Candidate will have no claim whatsoever on the Contracting Authority.

A.16. (Option: Data Protection)
If DanChurchAid CVR No. 36980214 is recording and processing personal data (such as names, addresses, emails, telephone number and CVs), the data will be processed solely for the purposes of the management and monitoring of the Quotation and the Contract by the Contracting Authority without prejudice to possible transmission to the bodies in charge of monitoring or inspection tasks in application of EU law. In addition, as and when the contract relates to the Contracting Authority's work outside the EU, transmission of personal data may occur to countries outside of the EU, solely for the purpose of implementing the procurement procedure and the Contract. According to the EU data protection regulation the Candidate has rights related to the information the Contracting Authority processes. Details concerning processing of the Contractor's personal data and rights are available in the Privacy Policy on https://www.danchurchaid.org/privacy-policy

A.17. Cancellation for convenience

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The Contracting Authority reserves the right to accept any proposal or reject any or all proposals at any time prior to the award of the Contract, without thereby incurring any liability to the candidates. The Contracting Authority reserves the right to initiate a new invitation to submit a proposal.

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ANNEX 1: TECHNICAL SPECIFICATIONS AND REQUIREMENTS

- **BACKGROUND INFORMATION**

The project will be implemented in Lowarengak village, Lake zone ward, Turkana North Sub-county, Turkana County.

- **TECHNICAL SPECIFICATIONS FOR THE WORKS**

TECHNICAL SPECIFICATIONS

Polyurethane Foam (PUF) Wall and Ceiling Panels	PUF/PIR insulated wall and ceiling panels for low-temperature freezer application. Minimum 100 mm thickness (120 mm preferred), closed-cell insulation, density ≥40 kg/m³, thermal conductivity ≤0.024 W/m·K, with pre-painted galvanized steel/PPGI internal and external cladding. Panels shall be suitable for continuous operation at -18°C and ambient temperatures up to 45°C, with sealed joints and vapour barrier to prevent condensation and ice formation.
SS checkred plate cladded PUF Floor Type	Insulated freezer floor suitable for continuous operation at -18°C and a minimum stored fish load of 500 kg. Minimum 100–120 mm high-density PUF/PIR insulation, vapour barrier, 20 mm marine-grade plywood or equivalent structural layer, and minimum 2 mm aluminium checker plate finish; non-slip, hygienic, corrosion-resistant, seamless/easy to clean. Floor shall be designed for rack and trolley loads and include appropriate thermal breaks.
Insulated Swing Door	Insulated freezer swing door, minimum 100–120 mm thick, heavy-duty hardware, airtight magnetic gasket, insulated frame, internal emergency safety release, door closer and heated door frame/gasket or equivalent anti-icing provision suitable for -18°C operation.
PVC Strip Curtain	Freezer-grade PVC strip curtain suitable for temperatures at or below -18°C, to minimise warm-air infiltration and reduce refrigeration losses during door opening.
Ceiling Mounted Evaporator Units	
Main Evaporator	Low-temperature ceiling-mounted evaporator suitable for freezer operation at -18°C room temperature. 2 low-temperature-resistant axial fans, 500 mm diameter, corrosion-resistant aluminium/PU-coated casing, electric heater defrost, drain pan and heated/insulated drain connection. Evaporator selection shall be based on the contractor's heat-load calculation and shall provide adequate air circulation around 500 kg of stored fish. Contractor shall state rated refrigeration capacity (kW) at the specified evaporating temperature.
Additional Evaporator	Additional low-temperature ceiling-mounted evaporator suitable for freezer operation at -18°C room temperature. 2 low-temperature-resistant axial fans, 500 mm diameter, corrosion-resistant aluminium/PU-coated casing, electric heater defrost, drain pan and heated/insulated drain connection. Evaporator selection shall be based on the contractor's heat-load calculation and shall provide adequate air circulation around 500 kg of stored fish. Contractor shall state rated refrigeration capacity (kW) at the specified evaporating temperature
Control Panel	Digital low-temperature freezer control panel suitable for continuous operation at -18°C, with LED display, temperature sensor, high/low temperature alarm, phase-failure/phase-sequence protection, compressor overload protection, high/low pressure protection, automatic defrost control, defrost termination control, delay timer, solenoid control and all required electrical/electronic components. Controller shall support temperature data logging.
Refrigeration & Electrical Works	Complete low-temperature refrigeration and electrical works, including properly sized low-temperature condensing unit/compressor package, copper refrigerant pipework, closed-cell vapour-tight pipe insulation, expansion device, solenoid valve, filter drier, sight glass, refrigerant, electrical connections, weatherproof LED lighting and all accessories. Refrigerant shall be R448A/R449A or another approved low-GWP refrigerant suitable for -

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	18°C freezer duty, subject to final engineering design. Supplier shall submit heat-load and energy-consumption calculations.
20 ft Container and Modification	20 ft container structure for cold-room installation, including structural supports, mounting channels, outdoor unit supports, defrost drainage and protective brackets. Structure shall be adequate for the cold-room panels, refrigeration equipment and operating loads
Container Plinth/Foundation	Reinforced-concrete foundation/plinth designed for the container and cold-room loads, with level, stable bearing surface and appropriate drainage around the cold room. Install 9 columns measuring 400mm x 400 mm and atleast 1000m height and reinforced with D12 and D8 steel
Verandah	Construct a verandah/covered entrance extension to reduce direct solar heat gain and rain exposure at the freezer entrance.
	Vertical Members: 63.5mm x 63.5mm x 3mm SHS tube
	Horizontal Roof Members: 50mm x 38 mm x 2mm RHS tube
	Horizontal Roof members: 38mm x 38 mm x 2mm RHS tube
	Horizontal Roof members: 50 mm x 50 mm x 2mm RHS tube
	Plain concrete mix 1:2:4 for vertical member anchorage
Stainless Steel Shelves	Fabricate and install food-grade stainless-steel fish storage racks/shelving units, corrosion-resistant and suitable for freezer temperatures. Racks shall be perforated to maintain clear air circulation around fish, permit cleaning, and safely support the 500 kg storage load. 1.5mm Stainless steel plates 25mm x 25mm x 1.2 mm SHS stainless tube
Solar System	615 W high-efficiency solar PV modules; total installed capacity approximately 8.6 kWp, subject to final refrigeration energy-load calculation.
	5 kWh lithium battery modules, total nominal storage 25 kWh; final battery capacity and usable depth-of-discharge shall be confirmed against refrigeration load, night operation and required autonomy.
	Hybrid inverter, 8–10 kW minimum, three-phase, compatible with the refrigeration compressor starting/running load, PV array and battery bank; final rating subject to electrical load calculation.
	Supply material and install a mounting Structure on the container
	Cables, DC/AC protection, isolators, earthing, surge protection, combiner/protection boxes, monitoring and all balance-of-system accessories sized for the freezer and solar system.

- **USE OF LOCAL LABOUR AND MATERIAL**

The following materials can be sourced locally:

- Water
- Sand
- Ballast

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REQUIREMENTS

- **INSPECTION AND TESTING (article 31 and 44 of the General Terms and Conditions for Works Contracts – Ver3 2020)**

Final test to be done for the cold room's cooling system and electrical system to ascertain its functionality

- **LIST OF PLANT**

The following are the lists of equipment the contractor should have:

1. Welding generator
2. Pocker vibrators
3. Concrete mixers

- **VEHICLES AND TRUCKS**

The contractor should indicate availability of the following for use in the project either through ownership(receipts and logbooks) or lease agreement.

1. Tipper / Pickup

- **MATERIALS AND SUPPLIES**

Materials to be availed by the contractor include:

1. As listed in the technical specifications
2. D8 and D12 Reinforcement bars
3. Cement
4. Sand
5. Ballast

- **EQUIPMENT**

The contractor to indicate the availability of the following equipment for use in the project either through ownership (Receipts) or lease agreement.

1. Pocker vibrator
2. Concrete mixer
3. Welding generator

- **ACCOMMODATION ON SITE FOR THE ENGINEER/LABOUR**

The contractor shall make own arrangement for accommodation of his/her staff on site during the project period.

- **SITE**
- The project will be implemented in Lowarengak village, Lake zone ward, Turkana North Sub-county, Turkana County.

- **KEY PERSONNEL NEEDED FOR THE EXECUTION OF THE WORKS)**

The contractor should provide a list of the following key staff for the project

1. Project Supervisor
2. Site engineer
3. Foreman
4. Electrician
5. Artisan

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- **TIMING AND IMPLEMENTATION**

The project is expected to be executed within two months period starting from the date the contract will be signed by both parties.

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ANNEX 2: DESIGN DOCUMENTS AND DRAWINGS

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ANNEX 3: PROPOSAL SUBMISSION FORM

The financial proposal for my services is as follows:

FINANCIAL PROPOSAL		
	Currency	**Amount**
Global price (fees and expenses)	Ksh.	
VAT or other tax	Ksh.	
Total price incl. taxes	Ksh.	

BILL OF QUANTITY FOR THE CONSTRUCTION OF INSTALLATION OF 6M LONG SOLAR POWERED FROZEN FISH COLD ROOM LOCATION: LOWARENGAK, LAKEZONE WARD, TURKANA NORTH SUB-COUNTY DESIGN STORAGE TEMPERATURE: -18°C | MINIMUM FISH STORAGE CAPACITY: 500 KG		
Number of structures	**Amount per structure in (Ksh)**	**Total amount in (Ksh)**
1		

Item	**Unit**	**Qty**	**Unit Price (ksh)**	**Rate/labour Excl. taxes and other duties (KES)**	**Total amount Excl. taxes and other duties (KES)**	**Taxes/ other duties (KES)**
20 FT Container Refrigeration and Insulation System						
Polyurethane Foam (PUF) Wall and Ceiling Panels						
Supply materials and install PUF/PIR insulated wall and ceiling panels for low-temperature freezer application. Minimum 100 mm thickness (120 mm preferred), closed-cell insulation, density ≥40 kg/m³, thermal conductivity ≤0.024 W/m·K, with pre-painted galvanized steel/PPGI internal and external cladding. Panels shall be suitable for continuous operation at -18°C and ambient temperatures up to 45°C, with sealed joints and vapour barrier to prevent condensation and ice formation.	m2	48				
SS checkred plate cladded PUF Floor Type						
Supply materials and install insulated freezer floor suitable for continuous operation at -18°C and a minimum stored fish load of 500 kg. Minimum 100–120 mm high-density PUF/PIR insulation, vapour barrier, 20 mm marine-grade plywood or equivalent structural layer, and minimum 2 mm aluminium checker plate finish; non-slip, hygienic, corrosion-	m2	13.5				

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resistant, seamless/easy to clean. Floor shall be designed for rack and trolley loads and include appropriate thermal breaks.						
Insulated Swing Door						
Supply insulated freezer swing door, minimum 100–120 mm thick, heavy-duty hardware, airtight magnetic gasket, insulated frame, internal emergency safety release, door closer and heated door frame/gasket or equivalent anti-icing provision suitable for -18°C operation.	No	1				
PVC Strip Curtain						
Supply install freezer-grade PVC strip curtain suitable for temperatures at or below -18°C, to minimise warm-air infiltration and reduce refrigeration losses during door opening.	No	1				
Ceiling Mounted Evaporator Units						
Main Evaporator						
supply Materials and install low-temperature ceiling-mounted evaporator suitable for freezer operation at -18°C room temperature. 2 low-temperature-resistant axial fans, 500 mm diameter, corrosion-resistant aluminium/PU-coated casing, electric heater defrost, drain pan and heated/insulated drain connection. Evaporator selection shall be based on the contractor's heat-load calculation and shall provide adequate air circulation around 500 kg of stored fish. Contractor shall state rated refrigeration capacity (kW) at the specified evaporating temperature.	No	1				
Additional Evaporator						
Additional low-temperature ceiling-mounted evaporator suitable for freezer operation at -18°C room temperature. 2 low-temperature-resistant axial fans, 500 mm diameter, corrosion-resistant aluminium/PU-coated casing, electric heater defrost, drain pan and heated/insulated drain connection. Evaporator selection shall be based on the contractor's heat-load calculation and shall provide adequate air circulation around 500 kg of stored fish. Contractor shall state rated refrigeration capacity (kW) at the specified evaporating temperature	No	1				
Control Panel						
Digital low-temperature freezer control panel suitable for continuous operation at	No	1				

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-18°C, with LED display, temperature sensor, high/low temperature alarm, phase-failure/phase-sequence protection, compressor overload protection, high/low pressure protection, automatic defrost control, defrost termination control, delay timer, solenoid control and all required electrical/electronic components. Controller shall support temperature data logging.						
Refrigeration & Electrical Works						
Complete low-temperature refrigeration and electrical works, including properly sized low-temperature condensing unit/compressor package, copper refrigerant pipework, closed-cell vapour-tight pipe insulation, expansion device, solenoid valve, filter drier, sight glass, refrigerant, electrical connections, weatherproof LED lighting and all accessories. Refrigerant shall be R448A/R449A or another approved low-GWP refrigerant suitable for -18°C freezer duty, subject to final engineering design. Supplier shall submit heat-load and energy-consumption calculations.	Lot	1				
Sub-total 1 Carried to Summary						
20 ft Container and Modification						
Modify and prepare 20 ft container structure for cold-room installation, including structural supports, mounting channels, outdoor unit supports, defrost drainage and protective brackets. Structure shall be adequate for the cold-room panels, refrigeration equipment and operating loads	No	1				
Sub-total 2 Carried to Summary						
Container Plinth/Foundation						
Supply and install reinforced-concrete foundation/plinth designed for the container and cold-room loads, with level, stable bearing surface and appropriate drainage around the cold room. Install 9 columns measuring 400mm x 400 mm and atleast 1000m height and reinforced with D12 and D8 steel						
Install 9 columns reinforced concrete columns measuring 400mm x 400 mm and atleast 1000m height and reinforced with D12 and D8 steel	CM	1.8225				
Sub-total 3 Carried to Summary						

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Verandah						
Construct a verandah/covered entrance extension to reduce direct solar heat gain and rain exposure at the freezer entrance.						
Vertical Members: 63.5mm x 63.5mm x 3mm SHS tube	M	20				
Horizontal Roof Members: 50mm x 38 mm x 2mm RHS tube	M	18				
Horizontal Roof members: 38mm x 38 mm x 2mm RHS tube	M	6				
Horizontal Roof members: 50 mm x 50 mm x 2mm RHS tube	M	50				
Plain concrete mix 1:2:4 for vertical member anchorage	CM	0.324				
Sub-total 4 Carried to Summary						
Stainless Steel Shelves						
Fabricate and install food-grade stainless-steel fish storage racks/shelving units, corrosion-resistant and suitable for freezer temperatures. Racks shall be perforated to maintain clear air circulation around fish, permit cleaning, and safely support the 500 kg storage load.						
1.5mm Stainless steel plates	SM	16.2				
25mm x 25mm x 1.2 mm SHS stainless tube	LM	108				
Sub-total 5 Carried to Summary						
Solar System						
Supply and Install 615 W high-efficiency solar PV modules; total installed capacity approximately 8.6 kWp, subject to final refrigeration energy-load calculation.	No	14				
Supply and install 5 kWh lithium battery modules, total nominal storage 25 kWh; final battery capacity and usable depth-of-discharge shall be confirmed against refrigeration load, night operation and required autonomy.	No	5				
Supply and install Hybrid inverter, 8–10 kW minimum, three-phase, compatible with the refrigeration compressor starting/running load, PV array and battery bank; final rating subject to electrical load calculation.	No	1				
Supply material and install a mounting Structure on the container	Lot	1				
Cables, DC/AC protection, isolators, earthing, surge protection, combiner/protection boxes, monitoring and all balance-of-system accessories sized for the freezer and solar system.	Lot	1				

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Sub-total 6 Carried to Summary						
Summary						
Container Refrigeration and Insulation System						
Container Modification						
Container plinth						
Verandah						
Stainless steel shelves						
Solar System						
Grand total						

COMPANY INFORMATION	
Company (legal name)	
Street name and no.	
City	
Postal code	
Country	
Phone no.	
Email	
Website	
Director (name)	
(OPTION: GENERAL COMPANY INFORMATION)	
Type and nature of company	
Year of establishment	
Company's nationality	
Number of years of experience as contractor - in own country - internationally	
Number of full-time employees	
Licensing authority	
Licence number (VAT no./TAX id)	
Countries with registered office	
Registration Certificate – please attach	
Local trade/professional organisations of which your company is a member	
Does your company have CSR related policies in place – e.g. Health, Safety, HR, Energy or Climate policy or is a member of Global Compact? Please state which policies.	
Is your company e.g. ISO 26000/50001/14000 certified or SA8000 certified? Please state which.	
Does your company have a Code of	

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Conduct?	

REFERENCES				
Name and country of Contracting Authority	**Type of works**	**Total value**	**Contact name**	**Phone/fax and email**

Include details of the experience and past performance on contracts of a similar nature within the past **five** years and information on other contracts in hand and contractually committed. Please attach available references and/or certificates of completion from the relevant contracting authorities.

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TECHNICAL QUALIFICATIONS	
Comments on technical specifications and drawings	

Candidate's personnel:	
a. Directors and Management	
b. Technical staff:	
Engineers	
Surveyors	
Foremen	
Mechanics	
Technicians	
Machine operators	

Include details about plant proposed and available for the implementation of the Works Contract.

COMPANY'S CONSTRUCTION PLANT	
Specify* the construction plants (e.g. trenching machines, cranes and lifting equipment etc.)	
Specify* the vehicles and trucks	
Specify* other plants	

*The specifications must entail information on: no. of units, operation time, ownership/hire and approximate value in ksh.

(OPTION: SUBCONTRACTORS)			
Work intended to be subcontracted	**Name and details of subcontractors**	**Value of subcontracts as percentage of the total cost of the contract**	**Subcontractors experience in similar work**

WORKPLAN

Please attach a workplan with brief descriptions of major activities, showing the sequence and proposed timetable for the execution of the works. In particular, the proposal shall detail the relevant activities, dates, allocation of labour and plant resources, temporary and permanent works to be constructed. The Candidate shall take account of the prevailing

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weather conditions and the requirement to prepare designs and obtain building permits prior to the execution of construction works.

The Candidate shall also submit a comprehensive method statement, with drawings if necessary, showing the methods by which he proposes to carry out the works.

The proposal is valid for a period of 90 days after the closing date in accordance with the article A.13 Validity.

After having read this Request for Proposal no. ***11-SPREAD-2026-001*** for ***construction and installation of fish cold room in Lowarengak lake zone ward, Turkana north sub-county, Turkana county*** dated ***1st October 2026***, and after having examined the Request for Proposal, I/we hereby offer to execute all Works described in the Technical Specifications and Requirements within the time frame described in the Technical Specifications and Requirements.

Further, I/we hereby:

- Accept, without restrictions, all the provisions in the Request for Proposal including the General Terms and Conditions for Works Contracts - Ver3 2020,
- Certify and attest compliance with eligibility criteria of article 59 of the General Terms and Conditions for Works - Ver3 2020.
- Certify and attest compliance with the Code of Conduct for Contractors.
- Certify that I/we do not support terrorists or terrorism activities, and do not condone the use of terrorism.
- **Option**: The Construction Company is a joint venture or consortium composed of the following member firms
  Lead firm: **[name and address]**
  Member firm: **[name and address]**
  Member firm: [**name and address]**

  The members of the joint venture or consortium are jointly and severally bound by this proposal should this proposal be accepted, shall be jointly and severally bound by the Contract.
  The members of the joint venture or consortium have designated (name of lead firm) to act as leader with authority to bind the joint venture or consortium, and to act on its behalf in all matters in connection or arising out of the Proposal and the Contract. In particular, the lead firm is authorized to incur liabilities, receive instructions and payments, open a bank account, obtain a Performance/Prepayment Guarantee and issue invoices and reports for and on behalf of any and all members of the joint venture or consortium in the course of the execution of the Contract.

  Option: The joint venture or consortia agreement together with the power of attorney authorizing **[name of lead firm]** to act on behalf of the joint venture or consortium and the members thereof are attached to this proposal.

This declaration will be confirmed in the Contract and misrepresentation will be regarded as grounds for termination.

Signature and stamp:

Signed by:

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The Candidate
Name of the company
Address
Telephone no.
Email
Name of contact person

(Option:) Signature of members of the joint venture or consortium:

Signature and stamp:

Signed by:

Member
Name of the company
Address
Telephone no.
Email
Name of contact person

Signature and stamp:

Signed by:

Member
Name of the company
Address
Telephone no.
Email
Name of contact person

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ANNEX 4: GENERAL TERMS AND CONDITIONS FOR WORKS CONTRACTS – VER3 2020

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GENERAL

1. DEFINITIONS

In these general terms and conditions:

a) “Contract” is the agreement entered into by the Contracting Authority and the Contractor for the execution and completion of the Works, to which these general terms and conditions are made applicable; the Contract is constituted of the documents listed in the Contract;

b) “Works” are what the Contract requires the Contractor to construct, install and turn over to the Contracting Authority, as described in the Technical Specifications;

c) “Temporary Works” include items to be constructed by the Contractor which are not intended to be permanent and form part of the Works;

d) “Engineer”, “Supervisor” and “Project Manager” might be used interchangeably in the Contractual documents; each term means the person responsible for supervising the execution of the Works, and monitoring and administering the execution of the Contract on behalf of the Contracting Authority:

e) “beneficiary country” is the country where the Works are to be constructed;

f) “breakdown of the overall price” is the heading-by-heading list of the rates and costs making up the price for a global price Contract;

g) “bill of quantities” is the document in which the costs of the Works are indicated, on the basis of the foreseen quantities of items of work and the fixed unit prices applicable to them;

h) “Contract Price” is the sum agreed in the Contract as payable to the Contractor for the execution and completion of the Works and for the remedying of any defects therein in accordance with the Contract;

i) “Site” is the land and other places on, under, in or through which the Works are to be constructed;

j) the Contracting Authority’s “partners” are the organisations to which the Contracting Authority is associated or linked.

2. LANGUAGE AND LAW

The Contract, all documents relating to the Contract and all written communications between the parties shall be in English.

Unless specified otherwise in the Contract, the law governing the Contract shall be the law of the country of the Contracting Authority.

3. GENERAL DUTIES AND POWERS OF THE ENGINEER

3.1. The Engineer shall provide administration and monitoring of the Contract and supervision of the Works as provided in the Contract. In particular, he shall perform the functions described in these general terms and conditions.

3.2. The Engineer shall be the Contracting Authority's representative vis-à-vis the Contractor during construction and until final payment is due. The Engineer shall advise and consult with the Contracting Authority. The Contracting Authority's instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have authority to act on behalf of the Contracting Authority only to the extent provided in the Contract Documents as they may be amended in writing in accordance with the Contract. The duties, responsibilities and limitations of authority of the Engineer as the Contracting Authority's representative during construction as set forth in the Contract shall not be modified or extended without the written consent of the Contracting Authority, the Contractor and the Engineer.

3.3. The Engineer shall visit the Site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Works and to determine in general if the Works are proceeding in accordance with the Contract. On the basis of his on-Site observations as an Engineer, he shall keep the Contracting Authority informed of the progress of the Works.

3.4. The Engineer shall have authority to issue to the Contractor, on behalf of the Contracting Authority, administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the Works and the remedying of any defects therein.

3.5. The Engineer shall not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Works or the Temporary Works. The Engineer shall not be responsible for or have control or charge over the acts or omissions of the Contractor (including the Contractor's failure to carry out the Works in accordance with the Contract) and of Sub-contractors or any of their agents or employees, or any other persons performing services for the Works, except if such acts or omissions are caused by the Engineer's failure to perform his functions in accordance with the contract between the Contracting Authority and the Engineer.

3.6. Except where expressly stated in the Contract, the Engineer shall not have authority to relieve the Contractor of any of his obligations.

3.7. The Contractor shall ensure that the Engineer has at all times free access to the Site or any other place where the Works are carried out or prepared. The Contractor shall provide facilities for such access so that the Engineer may perform his functions under the Contract.

3.8. Based on the Engineer's observations and an evaluation of the documentation submitted by the Contractor together with the invoices and requests for payment, the Engineer shall determine the amounts owed to the Contractor and shall issue Payment Certificates as appropriate.

3.9. The Contractor shall provide the Engineer with any information he might require. The Engineer may arrange for the supervision and inspection of any item being prepared and manufactured for supply under the Contract. To this end, he may apply such tests as he considers necessary in order to establish whether the materials and objects are of the requisite quality and quantity. He may require the replacement or repair, as the case may be, of items, which do not conform with the Contract, even after their installation. The Contractor may not rely on the fact that such supervision and inspection have been effectuated in order to evade his responsibility in the event of the Works being rejected by the Engineer.

3.10. In the performance of his duties, the Engineer shall not disclose information on the methods of manufacture and operation of the undertakings which he has obtained by reason of his supervision and inspection, except to those authorities that need to know it.

4. ASSIGNMENT AND SUBCONTRACTING

4.1. The Contractor shall not, except after obtaining the prior written authorization of the Contracting Authority, assign, transfer, pledge or make other disposition of the Contract or any part thereof or of any of the Contractor’s rights, claims or obligations under the Contract.

4.2. The Contractor shall not subcontract without the prior written authorisation of the Contracting Authority. Subcontractors must satisfy the eligibility criteria of article 60, as well as the conditions of articles 58 and 59. The approval by the Contracting Authority of the subcontracting of any part of the Contract or of the subcontractor to perform any part of the Works shall not relieve the Contractor of any of his obligations under the Contract.

5. SUPPLY OF DOCUMENTS

The Contracting Authority shall provide the Contractor, free of charge, with a copy of the drawings prepared for the implementation of the Contract and a copy of the specifications. The Contract shall list the documents and items which may be placed at the disposal of the Contractor, at the latter's request, to facilitate his work.

Unless it is necessary for the purposes of the Contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Contractor without the prior consent of the Engineer.

6. ACCESS TO SITE

6.1. The Contracting Authority shall, in due time and in conformity with the progress of the Works, place the Site and access thereto at the disposal of the Contractor in accordance with the programme of implementation referred to in these General Terms and Conditions.

6.2. Land procured for the Contractor by the Contracting Authority shall not be used by the Contractor for purposes other than the implementation of the Contract.

6.3. The Contractor shall keep any premises placed at his disposal in good condition while he is in occupation.

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6.4. The Contractor shall allow the Engineer and any person authorized by the Engineer or the Contracting Authority access to the Site and to any place where work in connection with the Contract is being carried out.

7. CONTRACTOR'S GENERAL OBLIGATIONS

7.1. The Contractor shall, with due care and diligence, and in accordance with the provisions of the Contract, design the Works to the extent stated in the Contract, and execute, complete and remedy any defects in the Works. The Contractor shall provide all superintendence, personnel, materials, plant, equipment and all other items, whether of a temporary or permanent nature, required for the design, execution and completion of Works, and for remedying any defects, in so far as is specified in, or can be reasonably inferred from, the Contract. The Contractor shall take full responsibility for the adequacy, stability and safety of all operations and methods of construction under the Contract.

7.2. The Contractor shall comply fully with any administrative orders given to him by the Engineer and shall ensure that the specifications and administrative orders are adhered to by his own employees and by his sub-contractors and their employees.

8. PROGRAMME OF IMPLEMENTATION

8.1. Within the time specified in the Contract, the Contractor shall submit a programme of implementation of the Contract for the approval of the Engineer. The programme shall contain at least the following:

a) the order in which the Contractor proposes to carry out the Works;
b) the deadlines for submission and approval of the drawings, if applicable;
c) a general description of the methods which the Contractor proposes to adopt for carrying out the Works; and
d) such further details and information as the Engineer may reasonably require.

The approval of the programme by the Engineer shall not relieve the Contractor of any of his obligations under the Contract.

8.2. No material alteration to the programme of implementation shall be made without the approval of the Engineer. If, however, the progress of the Works does not conform to the programme, the Engineer may instruct the Contractor to revise the programme and submit the revised programme to him for approval.

9. CONTRACTOR'S STAFF AND EMPLOYEES

The staff and workmen employed by the Contractor must be sufficient in number, and each must have the qualifications necessary to ensure due progress and satisfactory execution of the Works. The Contractor shall immediately replace all persons indicated by the Engineer, in a letter stating reasons, as hampering the proper execution of the Works. The Contractor shall make his own arrangements for the engagement of all staff and labour. He shall comply with all the relevant labour laws applying to his employees, shall duly pay them and afford them all their legal rights. The Contractor shall comply with article 58, Child Labour and Forced Labour.

10. EQUIPMENT

The equipment, which the Contractor has at the Site, shall be deemed to be for the purpose of carrying out the Works. The Contractor shall not be entitled to remove it without the written consent of the Engineer unless he shows that the said equipment is no longer required for the performance of the Works.

11. CONTRACTOR'S DRAWINGS

11.1. The Contractor shall submit to the Engineer for approval:

a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the Contract;
b) such drawings as the Engineer may reasonably require for the implementation of the Contract.

The approval of the drawings, documents, samples or models by the Engineer shall not relieve the Contractor from any of his obligations under the Contract.

11.2. Before the issue of the Certificate of Substantial Completion of the Works by the Engineer, the Contractor shall supply operating and maintenance manuals together with drawings, which shall be detailed enough to enable the Contracting Authority to operate, maintain, adjust and repair all parts of the Works.

11.3. These detailed drawings, documents and items may not be reproduced or used for another purpose by the Contracting Authority, nor communicated to third parties, except with the Contractor's and on payment of fair compensation.

12. SAFETY ON SITE AND NON-DISTURBANCE

12.1 The Contractor shall ensure the safety of the Site and the safety of all activities on the Site in accordance with national laws and the Occupational Safety and Health Convention C155 of the International Labour Organization throughout the period of execution. The Contractor shall be responsible for taking the necessary steps, in the interests of his employees, agents of the Contracting Authority and third parties, to prevent any loss or accident which may result from carrying out the Works. The Contractor shall, on his own responsibility and at his own expense, do his utmost to ensure that existing structures and installations are protected, preserved and maintained. He shall be responsible for providing and maintaining at his own expense all lighting, protection, fencing and security equipment that proves necessary for the proper implementation of the Works or that the Engineer may reasonably require.

12.2. On his own responsibility and at his expense, the Contractor shall take all the precautions required by good construction practice and by the prevailing circumstances to safeguard adjacent properties and avoid causing any abnormal disturbance therein.

12.3. The Contractor shall ensure that all operations necessary for the execution of the Works are carried on so as not to interfere unnecessarily or improperly with the public convenience, and in particular with traffic or communication links, underground cables, conduits and installations.

12.4. The Contractor shall hold harmless and indemnify the Contractor in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to the Contractor's failure to comply with his obligations under this article.

13. SETTING-OUT

13.1. The Contractor shall be responsible for:

a) the accurate setting-out of the Works in relation to the original marks, lines and reference levels provided by the Engineer;
b) the accuracy of the positioning, levelling, dimensioning and alignment of all parts of the Works;
c) the provision of all necessary instruments, accessories and labour in connection with the foregoing responsibilities; and
d) the review of the Engineering design and details of the Works; he shall inform the Contracting Authority of any mistakes or incorrectness in such design and details which would affect the Works.

13.2. If, at any time during the execution of the Works, any error appears in the positioning, levelling, dimensioning or alignment of any part of the Works, the Contractor shall, if the Engineer so requires, rectify such errors at his own cost and to the satisfaction of the Engineer, unless the error is based on inaccurate data supplied by the Engineer, in which case the Contracting Authority shall be responsible for the cost of rectification.

13.3. The checking of any setting-out or of any alignment or levelling by the Engineer shall in no way relieve the Contractor of his responsibility for the accuracy of these operations. The Contractor shall carefully protect and preserve all markers, sight rails, pegs and other items used in setting out the Works.

14. TEMPORARY WORKS

The Contractor shall carry out at his expense all the Temporary Works to enable the Works to be carried out. He shall submit to the Engineer drawings of Temporary Works, which he intends to use, such as cofferdams, scaffolding, trusses and shuttering. He shall take account of any observations made to him by the Engineer, while remaining responsible for these drawings.

15. DISCOVERIES

Discoveries of any interest whatsoever made during excavation or demolition work shall immediately be brought to the attention of the Engineer. The Engineer shall decide how such discoveries are to be dealt with, taking due account of the law of the beneficiary country.

16. RESPONSIBILITY FOR LOSS OR DAMAGE

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From the commencement date of the Works to the date of substantial completion as stated in the Certificate of Substantial Completion, the Contractor shall take full responsibility for the care of the Works and of all Temporary Works. In the event that any damage or loss should happen to the Works or to any part thereof or to any Temporary Works from any cause whatsoever (save and except as shall be due to *Force Majeure* as defined in article 56, the Contractor shall at his own cost repair and make good the same so that, at completion, the Works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and the Engineer's instructions. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under article 49.

17. INSURANCE

17.1. Without limiting his obligations and responsibilities under the Contract, the Contractor shall take out the insurances specified in articles 17.2., 17.3 and 17.4. Each insurance shall be effectuated with insurers and in terms approved by the Contracting Authority. Before the commencement date, the Contractor shall submit to the Engineer copies of the policies. When each premium is paid, the Contractor shall submit evidence of payment to the Engineer. The Contractor shall comply with the conditions stipulated in each of the insurance policies. Such insurance shall take effect front the commencement of the Works and remain in force until the issue by the Engineer of the Certificate of Final Completion of the Works. Each insurance shall be taken in the joint names of the Contracting Authority' and the Contractor.

17.2. The Contractor shall take out insurance against any loss or damage for which the Contractor is liable under the Contract arising from a cause occurring prior to the issue of the Certificate of Substantial Completion, and for loss or damage caused by the Contractor in the course of any other operation (including those under article 49). Such insurance shall cover:

a) the Works, together with materials and plant for incorporation therein and drawings, to the full replacement cost against all loss or damage from whatever cause arising other than from *force majeure*;
b) an additional sum of 10% of such replacement cost or any other amount specified in the Contract, to cover all the additional direct or indirect costs of making good losses or damage, including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatever nature;
c) the Contractor's equipment, plant and other things brought onto the Site by the Contractor, for a sum sufficient to provide their replacement at the Site.

17.3. The Contractor shall insure against each party’s liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under article 17.2) or to any person (except persons insured under article 17.4), which may arise out of the Contractor’s performance of the Contract and occurring before the issue of the Certificate of Final Completion. Unless provided otherwise in the Contract, this insurance shall be extended to cover liability for all loss and damage to the Contracting Authority’s property (except things insured under article 17.2).

17.4. The Contractor shall take out insurance against both his own liability, and the Contracting Authority and Engineer’s liability, for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of the Contractor’s representative, all personnel whom the Contractor utilises on Site, including staff of the Contractor and of each sub-contractor, and any other personnel assisting the Contractor in the execution of the Works. The insurance shall remain in full force and effect during the whole time that these personnel are assisting in the execution of the Works or the remedying of defects.

18. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

18.1. The Contractor shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees and sub-contractors also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement of such laws and regulations.

18.2. The Contractor, its personnel and sub-contractors shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

19. DISCRETION AND CONFIDENTIALITY

The Contractor shall treat all documents and information received in connection with the Contract as private and confidential and shall not disclose any particulars of the Contract without the prior consent in writing of the Contracting Authority. It shall in particular refrain from making any public statements concerning the project or the Works without the prior approval of the Contracting Authority.

20. CONFLICT OF INTEREST

The Contractor shall refrain from engaging in any activity which conflicts with his obligations towards the Contracting Authority under the Contract. The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. In particular, the Contractor and his employees or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment or materials for the project to which the Works relate. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay. The Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its personnel exposed to such a situation.

21. CORRUPT PRACTICES

21.1. The Contractor and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the Contract or not. “Corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other Contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other Contract with the Contracting Authority.

21.2. The payments to the Contractor under the Contract shall constitute the only income or benefit it may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the Contract.

21.3. The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

22. JOINT VENTURE OR CONSORTIUM

If the Contractor is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound to fulfil the terms of the Contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this Contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the Contract, the joint venture or consortium shall act as, can be considered, a single person and, in particular, shall have bank account(s) opened in its name, shall submit to the Contracting authority single guarantees if required, and shall submit single requests for payment and single reports.

The composition of the joint venture or consortium shall not be altered without the prior written consent of the Contracting Authority.

23. GUARANTEES

23.1. If specified in the Contract, and as guarantee for his proper and efficient performance of the Contract, the Contractor shall on signature of the Contract provide the Contracting Authority with a performance guarantee issued for the benefit of the Contracting Authority. The amount and character of such performance guarantee shall be as indicated in the Contract.

23.2. In the case where prepayment is agreed in the Contract, its payment by the Contracting Authority shall be subject to the prior presentation by the Contractor to the Contracting Authority of an approved performance security or prepayment guarantee, if so agreed and under the conditions specified in the Contract t.

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COMMENCEMENT OF IMPLEMENTATION AND DELAYS

24. COMMENCEMENT DATE

The date on which implementation of the Contract by the Contractor is to commence shall be specified in the Contract or shall be determined by an administrative order issued by the Engineer to the Contractor within a time period specified in the Contract.

25. PERIOD OF IMPLEMENTATION

The period of implementation of the Works shall commence on the date fixed in accordance with Article 24. The period of implementation shall be specified in the Contract, without prejudice to extensions of the period, which may be granted under Article 26.

26. EXTENSION OF THE PERIOD OF IMPLEMENTATION

26.1. The Contractor may request the Contracting Authority an extension of the period of implementation if his implementation of the Contract is delayed, or expected to be delayed, for any of the following reasons:

a) e xceptional weather conditions in the beneficiary country;
b) artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor;
c) administrative orders affecting the date of completion other than those arising from the Contractor's default;
d) failure of the Contracting Authority to fulfil its obligations under the Contract;
e) any suspension of the Works which is not due to the Contractor's default;
f) *force majeure* in accordance with article 56.

26.2. The Contracting Authority shall, upon such request for extension, determine whether the extension is justified, and if so, the period of any such extension of time.

27. DELAYS IN IMPLEMENTATION

If the Contractor fails to complete the Works by the deadline(s) specified in the Contract and in his programme of implementation approved by the Engineer in accordance with article 8, the Contracting Authority shall, without formal notice and without prejudice to any other remedies under the Contract, be entitled to liquidated damages for every day or part thereof which elapses between the end of the period of implementation or extended period of implementation and the actual date of completion, at the rate and up to the maximum amount specified in the Contract .

28. MODIFICATIONS

28.1. The Engineer may within his powers introduce any variations to the form, type or quality of the Works or any part thereof which he considers necessary and for that purpose or if for any other reasons it shall, in his opinion be desirable, he shall have power to order the Contractor to do and the Contractor shall do any of the following:

a) increase or decrease the quantity of any work under the Contract;
b) omit any such work;
c) change the character or quality or kind of any such work;
d) change the levels, lines, positions and dimensions of any part of the Works;
e) execute additional work of any kind necessary for the completion of the Works.

No such variation shall in any way vitiate or invalidate the Contract.

28.2. The Engineer shall, however, obtain the written approval of the Contracting Authority before giving any order for any variations which may result in an increase of the Contract Price or in an essential alteration of the quantity, quality or character of the Works.

28.3. No variations shall be made by the Contractor without an order in writing from the Engineer. Variations requiring the written approval of the Contracting Authority under article 28.2 shall be made by the Contractor only upon written order from the Engineer accompanied by a copy of the Contracting Authority's approval. Provided that, subject to the provisions of the Contract, no order in writing shall be required for any increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this article but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

28.4. The Engineer shall estimate to the Contracting Authority the amount to be added or deducted from the Contract Price in respect of any variation, addition or omission. The value of any variation, addition or omission shall be calculated on the basis of the unit prices contained in the Bill of Quantities or the Breakdown of Overall Price.

29. EXCEPTIONAL RISKS

29.1. If, during the execution of the Works, the Contractor encounters artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor, and if the Contractor is of the opinion that additional costs will be incurred and/or an extension of the period of implementation of the Contract will be necessary as a result of this, he shall notify the Engineer as soon as possible. The Contractor's notification shall specify the artificial obstructions and/or physical conditions, giving details of the expected effects thereof, the measures he is taking or intends to take and the extent of the expected delay in, or interference with, the execution of the Works.

29.2. On receipt of notification, the Engineer may inter alia give written instructions to the Contractor as to how the artificial obstructions or physical conditions are to be dealt with; and he may order that the Contract be modified, suspended or terminated.

29.3. In so far as he considers that some or all of the said artificial obstructions or physical conditions could not reasonably have been foreseen by an experienced Contractor, the Engineer shall:

a) take into account any delay suffered by the Contractor as a result of such obstructions or conditions in determining any extension of the period of implementation to which the Contractor is entitled under these General Terms and Conditions; and/or
b) calculate, in the event of artificial obstructions or physical conditions other than weather conditions, the additional payments due to the Contractor.

29.4. If the Engineer decides that some or all of the artificial obstructions or physical conditions could reasonably have been foreseen by an experienced Contractor, he shall so inform the Contractor as soon as practicable.

29.5**.** Weather conditions shall not entitle the Contractor to claim additional payments under Article 29. Where the Engineer judges that weather conditions that are normally foreseeable or specified in the Contract make the smooth execution of the Works difficult, he may decide to suspend such Works in accordance with article 30.

30. SUSPENSION

30.1. The Contractor shall, on the order of the Engineer, suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer may consider necessary.

30.2. During the period of suspension, the Contractor shall take such protective measures as may be necessary to safeguard the Works, plant, equipment and Site against any deterioration, loss or damage.

30.3. Additional expenses incurred in connection with such protective measures shall be added to the Contract Price, unless such suspension is:

a) necessary owing to some default of the Contractor; or
b) necessary owing to normal weather conditions on Site; or
c) necessary for the safety or the proper execution of the Works or any part thereof insofar as such necessity does not arise from any act or default by the Engineer or the Contracting Authority or from any of the exceptional risks referred to in Article 29.

30.4. The Engineer, after consultation with the Contracting Authority and the Contractor, shall determine such extra payment and/or extension of the period of implementation to be made to the Contractor in respect of such claim as shall, in the opinion of the Engineer, be fair and reasonable.

30.5. **If** the period of suspension exceeds 180 days and the suspension is not due to the Contractor's default, the Contractor may, by notifying the Engineer and the Contracting Authority, either request permission to restart or terminate the Contract within 14 days.

31. INSPECTION AND TESTING

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31.1. All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication, or on the Site or at all or any of such places. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work and the quality, weight or quantity of any materials used and shall supply samples of materials before incorporation in the Works for testing as may be selected and required by the Engineer. All testing equipment and instruments provided by the Contractor shall be used only by the Engineer or by the Contractor in accordance with the instructions of the Engineer.

31.2. All samples shall be supplied by the Contractor at his own cost.

31.3. The Contractor shall bear the costs of any of the following tests:

a) Those clearly intended by or provided for in the Contract;
b) Those involving load testing or tests to ensure that the design of the whole of the Works or any part of the Works is appropriate for the purpose which it was intended to fulfil.

31.4. Components and materials which are not of the specified quality shall be rejected. Rejected components and materials shall be removed by the Contractor from the Site within a period which the Engineer shall specify. Any Works incorporating rejected components or materials shall be rejected.

31.5. The Engineer shall, during the progress of the Works and before the issue by him of the Certificate of Substantial Completion, have the power to order or decide:

a) the removal from the Site, by a deadline specified in the administrative order, of any components or materials which, in the opinion of the Engineer, are not in accordance with the Contract;
b) the substitution of proper and suitable components or materials; or
c) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefore, of any Works which, in respect of components, materials, workmanship or design for which the Contractor is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

32. OWNERSHIP OF PLANT AND MATERIALS

32.1. All equipment, temporary Works, plant and materials provided by the Contractor shall, when brought on the Site, be deemed to be exclusively intended for the execution of the Works, and the Contractor may not remove the same or any part thereof, except for the purpose of moving it from one part of the Site to another, without the consent of the Engineer. Such consent shall not, however, be required for vehicles engaged in transporting any staff, labour, equipment, temporary Works, plant or materials to or from the Site.

32.2. All materials and equipment covered by payments made by the Contracting Authority to the Contractor shall thereupon become the sole property of the Contracting Authority, without limiting the Contractor's liability for their care.

32.3. Title to any equipment and supplies provided by the Contracting Authority shall rest with the Contracting authority.

32.4. Upon termination of the Contract, the equipment, Temporary Works, plant and materials on the Site shall be disposed of in accordance with article 55.4.

CONTRACT PRICE AND PAYMENTS

33. SUFFICIENCY OF PROPOSED PRICES

33.1. The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied himself as to the nature of the ground and the subsoil before submitting his proposal or tender. He shall also be deemed to have taken into account the form and nature of the Site, the extent and nature of the work and materials necessary for the completion of the Works, the means of communication with and access to the Site, the accommodation he may require and in general to have obtained for himself all necessary information as to the risks, contingencies and any other circumstances influencing or affecting his proposal or tender.

33.2. The Contractor shall be deemed to have satisfied himself before submitting his proposal or tender as to the correctness and sufficiency of the proposal or tender and of the rates and prices stated in the bill of quantities or breakdown of the overall price, which shall, save where otherwise provided in the Contract, cover all his obligations under the Contract.

33.3. Since the Contractor is deemed to have determined his prices on the basis of his own calculations, operations and estimates, he shall, at no additional charge, carry out any work that is the subject of any item whatsoever in his proposal or tender for which he indicates neither a unit price nor a lump sum.

34. PRICE REVISION

Unless otherwise stipulated in the Contract, no adjustment of the Contract Price shall be made in respect of fluctuations of market, prices of labour, materials, plant or equipment, neither due to fluctuation in interest rates nor devaluation or any other matters affecting the Works.

35. TAXATION

The Contractor shall be responsible for the payment of all charges and taxes arising from the execution of the Works and the Contracting Authority shall have no obligation or responsibility in connection with taxes or levies payable by the Contractor in its country of establishment or in the beneficiary country in connection with his performance of the Contract. The Contractor shall be deemed to have satisfied himself regarding the application of all relevant tax laws. However, the Contracting Authority shall provide the Contractor with reasonable assistance in case the Contractor is requested to obtain the benefit of tax exemptions.

36. CURRENCY OF PAYMENTS

Payments shall be made in the currency(ies) specified in the Contract. Where currency conversion is necessary, in particular for reimbursable costs arising in one currency but reimbursable in another currency, the following rates shall apply (unless otherwise specified in the Contract):

a) or a conversion into Euro, the rate published on the Infor-Euro on the first working day of the month in which the payment is made;
b) or a conversion into a national currency, the rate published by the central bank of the beneficiary country on the first working day of the month in which the payment is made.

37. CONDITIONS OF PAYMENT

37.1. Payments will be made by the Contracting Authority to the Contractor in accordance with these General Terms and Conditions. The Contract shall specify the frequency and the instalments of payments, the payment dates, amounts and currencies, practical arrangements and specific requirements for presentation of payment requests if any.

37.2. Payments due by the Contracting Authority shall be made to the Contractor's bank account specified in the Contract.

37.3. Sums due shall be paid within no more than 30 calendar days from the date of issue of an interim payment certificate by the Engineer in accordance with article 40, or of the issue of the final statement of account by the Engineer in accordance with article 41.

38. PREPAYMENT

38.1. The Contracting Authority shall make a prepayment to the Contractor of the amount, and by the dates, specified in the Contract, against provision by the Contractor of a guarantee in accordance with article 23.2, if provided so in the Contract.

38.2. The Contractor shall use the prepayment only to pay for equipment, plant, materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that the prepayment has been used in this way by supplying copies of invoices or other documents to the Engineer. Should the Contractor misuse any portion of the prepayment, it shall become due and repayable immediately

38.3. Unless otherwise provided in the Contract, the prepayment shall be repaid by way of reduction of proportionate amounts from interim payments. The amount of reduction in each interim payment shall be calculated in accordance with the method specified in the Contract.

39. MEASUREMENT

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The following principles shall apply to the measurement of the Works:

39.1. For a global price contract, the amount due under the Contract shall be determined on the basis of the breakdown of the overall price, or on the basis of a breakdown expressed as a percentage of the Contract Price corresponding to completed stages of the Works. Where items are accompanied by quantities, these shall be firm quantities for which the Contractor has submitted a global price and shall be paid for irrespective of the quantities of Works actually carried out.

39.2. For a unit price Contract:

a) the amount due under the Contract shall be calculated by applying the unit rates to the quantities actually executed for the respective items, in accordance with the Contract;
b) the quantities set out in the Bill of Quantities shall be the estimated quantities of the Works, which shall not be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfilment of his obligations under the Contract;
c) the Engineer shall determine by measurement the actual quantities of the Works executed by the Contractor, and these shall be paid for in accordance with the provisions of article 40, Interim Payments. Save where otherwise provided in the Contract, no additions may be made to the items in the Bill of Quantities, save as a result of a variation in accordance with Article 28 or another provision of the Contract entitling the Contractor to additional payment;
d) the Engineer must, when he requires any parts of the Works to be measured, give the Contractor reasonable notice to attend or send a qualified agent to represent him. The Contractor or his agent shall assist the Engineer in making such measurements and shall furnish all particulars required by the Engineer. Should the Contractor fail to attend or to send an agent, the measurement made or approved by the Engineer shall be binding on the Contractor;
e) the Works shall be measured net, notwithstanding any general or local custom, save where otherwise provided for in the Contract.

40. INTERIM PAYMENTS

40.1. At the end of each period specified in the Contract, the Contractor shall submit an application for interim payment to the Engineer in a form approved by the Engineer. The application shall as a minimum include the following items, as applicable:

a) the estimated Contract value of the permanent Works executed up to the end of the period in question;
b) an amount to be deducted for the repayment of prepayment under Article 38.

40.2. Within 30 days of receiving an application for interim payment, it shall be approved or amended in such a way that it reflects, in the Engineer's opinion, the amount due to the Contractor under the Contract. In cases where there is a difference of opinion as to the value of an item, the Engineer's view shall prevail. After calculating the amount due to the Contractor the Engineer shall send the Contracting Authority and the Contractor an interim payment certificate for the amount due to the Contractor and shall inform the Contractor of the Works for which payment is being made.

40.3. The Engineer may, by an interim payment certificate, make any corrections or modifications to any previous certificate issued by him and shall have power to modify the valuation in, or withhold the issue of, any interim payment certificate if the Works or any parts thereof are not being carried out to his satisfaction.

41. FINAL STATEMENT OF ACCOUNT

41.1. Not later than 45 days after the issue of the Certificate of Final Completion in accordance with article 51, the Contractor shall submit to the Engineer a draft final statement of account with supporting documents showing in detail the value of the work done in accordance with the Contract, together with all further sums which the Contractor considers to be due to him under the Contract in order to enable the Engineer to prepare the final statement of account.

41.2**.** Within 45 days of receiving the draft final statement of account and of all information reasonably required for its verification, the Engineer shall prepare the final statement of account, which determines:

a) the amount which, in his opinion, is finally due under the Contract;
b) after establishing the amounts previously paid by the Contracting Authority and all sums to which the Contracting Authority is entitled under the Contract, the balance, if any, due, from the Contracting Authority to the Contractor, or from the Contractor to the Contracting Authority, as the case may be.

41.3. The Engineer shall issue the Contracting Authority and the Contractor, with the final statement of account showing the final amount to which the Contractor is entitled under the Contract. The Contracting Authority and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work performed under the Contract and shall promptly submit a signed copy to the Engineer.

41.4. The final statement of account signed by the Contractor shall constitute a written discharge of the Contracting Authority confirming that the total in the final statement of account represents full and final settlement of all monies due to the Contractor under the Contract. However, such discharge shall become effective only after any payment due to the Contractor under the final statement of account has been made.

42. REPAYMENT BY CONTRACTOR

42.1. The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 30 days of receiving a request to do so. Should the Contractor fail to make repayment within this time period, the Contracting Authority may, within two months of late payment, claim late-payment interests from the Contractor calculated in the same conditions as in article 43.

42.2. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Contractor.

43. DELAYED PAYMENTS

43.1. If the Contracting Authority fails to make payments within the periods specified in **article 37.3,** the Contractor may, within two months of late payment, claim late-payment interest:

- at the rediscount rate applied by the issuing institution of the country of the Contracting Authority where payments are in national currency;
- at the rate applied by the European Central Bank to its main refinancing transactions in Euro, as published in the Official Journal of the European Union, where payments are in Euro,

on the first day of the month in which the deadline expired, plus three and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

43.2. Any default in payment of more than 90 days from the expiry of the period laid down in Article 37.3 shall entitle the Contractor either not to perform the Contract or to terminate it, with 30 days' prior notice to the Contracting Authority and the Engineer.

COMPLETION OF WORKS

44. TESTS AND VERIFICATION OPERATIONS

The Works shall not be declared substantially completed until the verifications and tests on completion prescribed in the Contract have been carried out in accordance with article 31 at the expense of the Contractor. The Contractor shall notify the Engineer of the date on which such verification and tests may commence.

45. CERTIFICATE OF SUBSTANTIAL COMPLETION

45.1. When the whole of the Works has been substantially completed and have satisfactorily passed any verification and test on completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer accompanied by an undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking shall be in writing and shall be deemed to be a request by the Contractor, for the Engineer to issue a Certificate of Substantial Completion in respect of the Works. The Engineer shall, within 21 days of the date of delivery of such notice either issue to the

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Contractor, with a copy to the Contracting Authority, a Certificate of Substantial Completion stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract or give instructions in writing to the Contractor specifying all the work which, in the Engineer's opinion, requires to be done by the Contractor before the issuance of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the work specified therein. The Contractor shall be entitled to receive such Certificate of Substantial Completion within 21 days of completion, to the satisfaction of the Engineer, of the work so specified and making good any defect so notified. Upon issuance of the Certificate of Substantial Completion of the Works, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work during the Defects Liability Period.

46. SUBSTANTIAL COMPLETION OF SECTIONS OR PARTS OF THE WORKS

In accordance with the procedure in article 45 and on the same conditions as provided therein, the Contractor may request the Engineer to issue, and the Engineer may issue, a Certificate of Substantial Completion in respect of any Section or part of the Works which has been substantially completed and has satisfactorily passed any tests on completion prescribed by the Contract, if:

a) a separate time for completion is provided in the Contract in respect of such Section or part of the Works;
b) such Section or part of the Works has been completed to the satisfaction of the Engineer and is required by the Contracting Authority for his occupation or use.

47. DEFECTS LIABILITY PERIOD

The expression "Defects Liability Period" shall mean the period of 365 days (or any other period specified in the Contract), calculated from the date of completion of the Works stated in the Certificate of Substantial Completion issued by the Engineer or, in respect of any Section or part of the Works for which a separate Certificate of Substantial Completion has been issued, from the date of completion of that Section or part as stated in the relevant Certificate. The expression "the Works" shall, in respect of the Defects Liability Period, be construed accordingly.

48. COMPLETION OF OUTSTANDING WORK AND REMEDYING OF DEFECTS

During the Defects Liability Period, the Contractor shall finish the work, if any, outstanding at the date of the Certificate of Substantial Completion, and shall execute all such work of repair, amendment, reconstruction, rectification and making good defects, imperfections, shrinkages or other faults as may be required of the Contractor in writing by the Engineer during the Defects Liability Period and within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to expiration of the Defects Liability Period.

49. COST OF EXECUTION OF WORK OF REPAIR

All such outstanding work shall be carried out by the Contractor at his own expense if the necessity thereof shall, in the opinion of the Engineer, be due to the use of material or workmanship not in accordance with the Contract, or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied, on the Contractor's part under the Contract.

50. REMEDY ON CONTRACTOR'S FAILURE TO CARRY OUT WORK REQUIRED

if the Contractor shall fail to do any such work outstanding on the Works, the Contracting Authority shall be entitled to employ and pay other persons to carry out the same, and all expenses consequent thereon or incidental thereto shall be recoverable from the Contractor by the Contracting Authority, and may be deducted by the Contracting Authority from any sums due or which may become due to the Contractor or from guarantees held against the Contractor.

51. CERTIFICATE OF FINAL COMPLETION

Upon satisfactory completion of the work outstanding on the Works, the Engineer shall within 30 days of the expiration of the Defects Liability Period issue a Certificate of Final Completion to the Contractor. The Contract shall be deemed to be completed upon issuance of such Certificate, provided that the provisions of the Contract which remain unperformed and the settlement of disputes provision in the Contract shall remain in force for as long as is necessary to dispose of any outstanding matters or issues between the parties.

BREACH OF CONTRACT AND TERMINATION

52. BREACH OF CONTRACT

52.1. A Party shall be in a breach of Contract if it fails to discharge any of its obligations under the Contract. Where a breach of Contract occurs, the injured Party shall be entitled to damages and/or termination of the Contract.

52.2. Where a breach of Contract is attributable to the Contractor, the Contracting Authority shall also be entitled to the following remedies as of right:

a) implementation of all or part of the Works using directly-employed labour;
b) termination of all or part of the Contract;
c) conclusion of a contract with a third party replacing the Contractor, after prior termination of the original Contract.

52.3. In addition to the above-mentioned measures, the Contracting Authority may claim the application of article 27 and the award of liquidated damages, as well as the award of general damages.

52.4. In the event of the Works being executed by directly employed labour or by a Contract with a third party replacing the Contractor, provisions of article 55.5 shall apply.

52.5. Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be effectuated by deduction from the sums due to the Contractor, from the deposit, or by payment under the guarantee.

53. TERMINATION BY THE CONTRACTING AUTHORITY

The Contracting Authority may, after giving the Contractor 7 days' notice, terminate the Contract in any of the following cases:

a) the Contractor is in breach of his obligations under the Contract;
b) the Contractor fails to comply within a reasonable time with a notice given by the Engineer requiring him to make good any neglect or failure to perform his obligations under the Contract;
c) the Contractor refuses or neglects to carry out administrative orders given by the Engineer;
d) the Contractor takes some action without requesting or obtaining the authorisation of the Contracting Authority or the Engineer, when such prior authorisation is required under the Contract;
e) the Contractor's declarations and warranties in respect of his eligibility (article 59) and/or in respect of article 57 and article 58, appear to have been untrue, or cease to be true;
f) any organizational modification occurs involving a change in the legal personality, nature or control of the Contractor (or the members of the joint venture or consortium), unless such modification is recorded in an addendum to the Contract;
g) any other legal disability of the Contractor hindering execution of the Contract occurs;
h) the Contractor fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present Contract is not able to abide by his commitments;
i) for convenience, if this is in the interest of the Contracting Authority.

54. TERMINATION BY THE CONTRACTOR

The Contractor may, after giving 14 days' notice to the Contracting Authority, terminate the Contract in any of the following cases:

a) in the circumstances specified in article 43.2; or
b) if the Contracting Authority is in material breach of his obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Contractor's notice specifying such breach; or
c) if the Contracting Authority suspends the progress of the Works or any part thereof for more than 180 days, for reasons not specified in the Contract or not attributable to the Contractor.

55. RIGHTS AND OBLIGATIONS UPON TERMINATION

55.1. Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Contractor under the Contract.

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55.2. The Engineer shall, upon the issue of the notice of termination of the Contract, instruct the Contractor to take immediate steps to bring the Works to a close in a prompt and orderly manner and to reduce expenditure to a minimum. The Contractor shall make the Site safe and secure and leave the Site as soon as reasonably possible.

55.3. The Engineer shall, as soon as possible after termination, take the following actions:

a) certify the value of the Works and all sums due to the Contractor at the date of termination;
b) draw a report on work performed by the Contractor after inspection of the Works, and inventory taken of temporary structures, materials, plant and equipment. The Contractor shall be summoned to the inspection and the taking of the inventory.

55.4. The Contracting Authority shall have the option of acquiring in whole or in part temporary Works and structures which have been approved by the Engineer, plant, equipment and materials specifically supplied or manufactured in connection with the execution of Works under the Contract. The purchase price of such Temporary Works, structures, equipment, plant and materials shall not exceed the unpaid portion of the expenditure incurred by the Contractor, such expenditure being limited to that required for the implementation of the Contract under normal conditions. The Contracting Authority may purchase, at market prices, the materials and items supplied or ordered by the Contractor and not already paid for by the Contracting Authority on such conditions as the Engineer considers appropriate.

55.5. The Contracting Authority may upon termination of the Contract complete the Works itself by using directly employed labour or conclude another contract with a third party replacing the Contractor. Additional expenditure resulting from the use of directly employed labour or of a contract with a third party replacing the Contractor shall be borne by the Contractor in the cases of termination by the Contracting Authority under article 53 (a) to (h).

55.6. If the Contracting Authority terminates the Contract under article 53 (a) to (h), it shall be entitled to recover from the Contractor any loss it has suffered up to the maximum amount stated in the Contract. If no maximum amount is stated, the Contracting Authority shall not be entitled to recover more than the part of the Contract price corresponding to the value of that part of the Works which cannot, by reason of the Contractor's failure, be put to their intended use.

55.7. In case of termination under article 52(i) and 53, the Contractor shall be entitled to claim, in addition to sums owing to him for Works already satisfactorily completed, and for sums owing to him under article 55.4, the reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract and substantiated costs resulting from commitments entered into prior to the date of termination. The Contractor shall not be entitled to receive any other payment or damages.

56. FORCE MAJEURE

56.1. Neither party shall be considered to be in breach of its obligations under the Contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the Contract by both parties.

56.2. The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.
A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

56.3. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Engineer in writing, the Contractor shall continue to perform his obligations under the Contract as far as is reasonably practicable and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Contractor shall not employ such alternative means unless directed to do so by the Engineer.
56.4. If the Contractor incurs additional costs in complying with the Engineer's directions or using alternative means under Article 56.3, the amount thereof shall be certified by the Engineer.

56.5. If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the Works that the Contractor may by reason thereof have been granted, either party shall be entitled to serve the other with 30 days' notice to terminate the Contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the Contract shall be terminated and, by virtue of the law governing the Contract, the parties shall be released from further execution of the Contract.

57. HUMAN RIGHTS AND LABOUR RIGHTS

The Contractor warrants that it, and its affiliates, respect and uphold Human- and Labour Rights defined in national law and in the UN Universal Declaration of Human Rights (1948) and the International Labour Organization Declaration on Fundamental Principles and Rights at Work (1998). Furthermore, the Contractor (and each member of a joint venture or a consortium) warrants that it and its affiliates comply with the UN Convention on the Rights of the Child - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the Forced Labour Convention C29 and in the Abolition of Forced Labour Convention C105 of the International Labour Organization. Furthermore, the Contractor warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the contract, shall entitle the Contracting Authority to terminate this contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

58. MINES AND OTHER WEAPONS

The Contractor (and each member of the joint venture or a consortium) warrants that it and its affiliates is NOT engaged in any development, sale, manufacture or transport of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Furthermore, the Contractor warrants that it and its affiliates are NOT involved in the sale and/or production of weapons which feed into violations of International Humanitarian Law covered by the Geneva Conventions I-IV and Additional Protocols; and the UN Convention on Certain Conventional Weapons (1980). Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this contract immediately upon notice.

59. INELIGIBILITY

By signing the Contract, the Contractor (or, if a joint venture or consortium, any member thereof) certifies that he and/or his affiliates are not in one of the situations listed below:

a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata;*
c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the Contract is to be performed;
e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
f) Following another procurement procedure or grant award procedure financed by the European Community budget or another donor or following another procurement procedure carried out by the Contracting Authority or one of its partners, they have been declared to be in serious breach of Contract for failure to comply with their Contractual obligations.
g) He has been guilty of creating an entity under a different jurisdiction with the intent to circumvent fiscal, social or any other legal obligations of mandatory application in the jurisdiction of his registered office, central administration or principal place of business.
h) They are involved in terrorism activities, providing support to individuals or organizations that support terrorism activities, condone the use of terrorism or involved in the provision of arms to individuals or organizations involved in terrorism.

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i) They are on a list of sanctioned parties issued by United States government, UN, EU or other government issued terrorism and sanction lists.

60. CHECKS AND AUDITS

For the purpose of checks and audit the Contractor shall permit the Contracting Authority and the Engineer to inspect, at any time, the records including financial and accounting documents and to make copies thereof and shall permit the Contracting authority, the Engineer, or any person authorized by them, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to audit such records and accounts both during and after the execution of the Works. These inspections may take place up to 7 years after the final payment. The Contracting Authority and the Engineer may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

61. SETTLEMENT OF DISPUTES

61.1. The parties shall make every effort to settle amicably any dispute, which may arise between them. Once a dispute has arisen, the parties shall notify each other in writing of their positions on the dispute and any solution, which they consider possible. If either party deems it useful, the Parties shall meet and try and settle the dispute. A party shall respond to a request for amicable settlement within 30 days of such a request. The maximum period laid down for reaching such a settlement shall be 120 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a party fail to respond in time to requests for a settlement, either party shall be free to proceed to the next stage of the dispute settlement procedure by notifying the other.

61.2. If no settlement is reached within 120 days of the start of the amicable dispute settlement procedure, each party may seek:

a) either a ruling from a national court
b) or an arbitration ruling in accordance with the Contract.

62. ASSIGNMENT OF RIGHTS AND OBLIGATIONS BY THE CONTRACTING AUTHORITY

The Contracting Authority reserves the right to transfer and assign to any of its partners, or other beneficiary, any right and any obligation the Contracting Authority has against the Contractor under the Contract.

63. LIABILITY

Under no circumstances or for no reason whatsoever will the Back donor entertain any request for indemnity or payment directly submitted by the (Contracting Authority's) contractors.

64. DATA PROTECTION

If the Contracting Authority is subject to EU Directive 95/46/EC (General Data Protection Regulation) and the Contractor is processing personal data in the context of submitting an offer (e.g. CVs of both key and technical experts) and/or implementation of a contract (e.g. replacement of experts) the Contractor shall do so accordingly to EU Directive 95/46/EC (General Data Protection Regulation) and inform the data subjects of the details of the processing and communicate the Contracting Authority's Privacy Policy to them.

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ANNEX 5: CODE OF CONDUCT FOR CONTRACTORS



CODE OF CONDUCT FOR CONTRACTORS

ETHICAL PRINCIPLES AND STANDARDS

By this Code of Conduct, the Contracting Authority outlines the ethical principles and standards which contractors are required to follow and uphold. The Contracting Authority is a rights-based organisation that works for people's rights to a dignified life and equality and we expect our contractors to act in a socially responsible manner, with respect for human and Labour rights and the environment.

This Code of Conduct are aligned with recommendations from the Danish Ethical Trading Initiative (DIEH)[1], the UN Global Compact principles[2] and ECHO's Humanitarian Aid Guidelines for Procurement 2011[3].

General Conditions

The Code of Conduct is applicable for all contractors who supply goods, services and works to our operations and projects. It defines the expectations to contractors to act in accordance with applicable law and to conduct themselves responsibly, ethically and with integrity. This includes taking appropriate due diligence measures towards minimising adverse impacts on human- and labour rights, environment and anti-corruption principles. By signing the Code of Conduct contractors agree to ensure due diligence and placing ethics central to their business.

The provision of the ethical standards constitutes minimum rather than maximum standards. International and national laws shall be complied with, and where the provisions of law and the Contracting Authority's standards address the same subject, the highest standard shall apply.

It is the responsibility of the contractor to assure that their contractors and subcontractors comply with the ethical requirements and standards set forth in this Code of Conduct.

The Contracting Authority acknowledge that implementing ethical standards and ensuring ethical behaviour in our supply chain is a continuous process and a long-term commitment for which we also have a responsibility. To achieve high ethical standards, we are willing to engage in dialogue and collaboration with our contractors. In addition, we expect our contractors to be open and willing to engage in dialogue.

Unwillingness to co-operate or serious violations of the Code of Conduct will lead to rejection of bids or termination of contracts.

Human Rights and Labour Rights

Contractors must protect and promote human- and labour rights and work actively to address issues of concern as they arise. As a minimum they are required to comply with national laws and actively work to secure alignment to international Human and Labour Rights standards and frameworks:

Respect for Human- and Labour Rights (The International Bill of Human Rights, ILO Declaration on Fundamental Principles and Rights at Work and the UN Guiding Principles on Business and Human Rights):
The basic principles of the International Bill of Human Rights are that all human beings are born free and equal in dignity and in rights within all spheres of life. Everyone has the right to life, liberty, dignity, freedom and security of the person. Contractors must not flaunt their responsibility to uphold and promote such rights toward employees, contractors, sub-contractors and the community in which they operate.

Non-exploitation of Child Labour (UN Child Convention on the Rights of the Child, and ILO C138 & C182):
Contractors must not engage in the exploitation of child labour[4] and contractors must take the necessary steps to prevent the employment of child labour. A child is defined as a person under the age of 18 and children shall not be engaged in labour that compromise their health, safety, mental and social development, and schooling. Children under the age of 15 (in developing countries 14) may not be engaged in regular work, but children above the age of 13 (in developing countries 12) can be engaged in light work if it does not interfere with compulsory schooling and is not harmful to their health and development.

Employment is freely chosen (ILO C29 & C105):
Contractors must not make use of forced or bonded labour and must respect workers freedom to leave their employer.

Freedom of association and the right to collective bargaining (ILO C87, C98 & C154):
Contractors must recognise workers right to join or form trade unions and bargain collectively and should adopt an open attitude towards the activities of trade unions (even if this is restricted under national law).

Living wages are paid (ILO C131):
As a minimum, national minimum wage standards or ILO wage standards must be met by contractors. Additionally, a living wage must be provided. A living wage is contextual, but must always meet basic needs such as food, shelter, clothing, health care and schooling, and provide a discretionary income[5].

Non-discrimination in employment (ILO C100 & C111 and the UN Convention on Discrimination against Women):
Contractors must not practice discrimination in hiring, salaries, job termination, retiring, and access to training or promotion - based on race, national origin, caste, gender, sexual orientation, political affiliation, disability, marital status, or HIV/AIDS status.

No harsh or inhumane treatment of employees (ILO C105):
The use of physical abuse, disciplinary punishment, sexual abuse, the threat of sexual and physical abuse, and other forms of intimidation and abuse may never be practiced by contractors.

Working conditions are safe and hygienic (ILO C155 & C168):
Contractors shall provide safe and hygienic working conditions for its employees and put in place adequate measure to prevent accidents and injury to health associated with or occurring in the course of work.

Working hours are not excessive (ILO C1, C14, C30 &, C106):
Contractors must ensure that working hours comply with national law and international standards. A working week of 7 days should not exceed 48 hours and employees must have one day off per week. Overtime shall be compensated, limited and voluntary.

Regular and contractual employment (ILO C143, C183 & C132):
All work performed must be on the basis of a recognised employment relationship via written contracts, established through international conventions and national laws. Contractors shall provide leave, benefit and employment protection, and protect vulnerable group's regular employment under these laws and conventions.

[1] https://www.dieh.dk/om-dieh/etisk-handel/hvordan-etisk-handel/dieh-guidelines/
[2] https://www.unglobalcompact.org/what-is-gc/mission/principles
[3] http://ec.europa.eu/echo/files/partners/humanitarian_aid/Procurement_Guidelines_en.pdf

[4] The definition of Child Labour can be found at: https://www.unglobalcompact.org/what-is-gc/mission/principles/principle-5 and https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C138

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International Humanitarian Law

Contractors linked to armed conflicts or operating in armed conflict settings shall respect civilian's rights under International Humanitarian Law and not be engaged in activities which directly or indirectly initiate, sustain, and/or exacerbate armed conflicts and violations of International Humanitarian Law[6] as defined in the Geneva Conventions I-IV and Additional Protocols. Contractors are expected to take a 'do no harm' approach to people affected by armed conflict.

Non-Involvement in Weapon- and Criminal Activities

The Contracting Authority advocates for the Ottawa Convention against landmines and the Convention on Cluster Munitions. Contractors shall not engage in any development, sale, manufacturing or transport of anti-personnel mines, cluster bombs or components, or any other weapon which feed into violations of International Humanitarian Law covered by the Geneva Conventions and Protocols.

Contractors shall not be engaged in any illegal or criminal activity and must never be associated with, provide support to or be involved in any terrorist activities.

Protection of the Environment

The Contracting Authority wishes to minimise the environmental damages applied to nature via our procurement activities and we expect our suppliers and contractors to act in an environmentally responsible manner. This involves respecting applicable national and international environmental legislation and acting in accordance with the Rio Declaration on Environment and Development. As a minimum, contractors must never support or be involved in illegal foresting and shall actively address issues related to proper waste management, ensuring recycling, conservation of scarce resources and efficient energy use.

Anti-Corruption

Corruption is by the Contracting Authority defined as the misuse of entrusted power for private gain and it includes bribery, fraud, embezzlement and extortion. The Contracting Authority holds a great responsibility to avoid corruption and ensure high standards of integrity, accountability, fairness and professional conduct in our business relations. Contractors are expected to have the same approach by undertaking good and fair business ethics and practices, take action to prevent and fight corruption, and abide by international conventions as well as international and national laws.

Complaints

Contractors and contractor's employees who are confronted with corrupt practices, violations of human- or labour rights, or any of the standards laid down in this Code of Conduct, are encouraged to file a complaint with the Contracting Authority[7].

[5] Discretionary income is the amount of an individual's income that is left for spending, investing, or saving after taxes and personal necessities (such as food, shelter, and clothing) have been paid.
[6] This includes pillage/looting which is the unlawful taking of private property for personal or private gain based on force, threats, intimidation, pressure and through a position of power accomplished due to the surrounding conflict.
[7] DCA's Complaint Handling System is accessed on our website.

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