

# **1. INSTRUCTIONS TO BIDDERS**

# 1. Instructions to Bidders

## Instructions to Bidders Clause Reference

### General

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|---|--|
| <b>1. Employer Scope of Bid,<br/>Site location,<br/>Contract Period</b> | <b>1.1</b> The Employer as named in the <b>Bidding Data</b> invites bids for the Janitorial services as specified in the Bid<br><b>1.2</b> The successful bidder will be expected to complete the works within the Intended Completion Date stated in the <b>Bidding Data</b> .<br><b>1.3</b> Intended completion date shall be calculated from the Start Date.  |
| <b>2. Collection of Bidding Documents</b>                               | <b>2.1</b> The office for collection of bidding forms is stated in the <b>Bidding Data</b> .<br><b>2.2</b> The non-refundable fee is stated in the <b>Bidding Data</b> .<br><b>2.3</b> The time of closing/opening of Bids and the details of the document issue are stated in the <b>Bidding Data</b> .   |
| <b>3. Source of Funds</b>   | Janitorial service will be financed by the source stated in the <b>Bidding Data</b> .  |
| <b>4. Ethics, Fraud and Corruption</b>                                  | <b>4.1</b> Parties associated with procurement actions, namely, contractors and officials shall ensure that they maintain strict confidentiality throughout the process;<br><b>4.2</b> Officials shall refrain from receiving any personal gain from any Procurement action. No gifts or inducement shall be accepted. Suppliers/Contractors are liable to be disqualified from the bidding process if found offering any gift or inducement which may have an effect of influencing a decision or impairing the objectivity of an official. |
| <b>5. Eligibility and Qualification of the Bidder</b>                   | <b>5.1 Eligibility</b> <ul style="list-style-type: none"><li>a. The bidder shall not be a blacklisted contractor at the time of bidding and at the time of award of contract.</li><li>b. Bidder shall have experience in performing janitorial services.</li><li>c. Bidder shall be a registered company under Registrar of Companies in Sri Lanka.</li></ul>  |

## 5.2 Qualifications

Bidder shall fulfill the following requirements to qualify to award the contract.

- a. Bidder shall have completed number of similar janitorial services stated in the **Bidding Data**.
- b. Bidder shall have completed average annual volume of work stated in the **Bidding Data** during last three years.
- c. Bidder shall have work force as stated in the **Bidding Data**.
- d. Bidder shall have machinery and equipment as stated in the **Bidding Data**.
- e. Bidder shall have working capital as stated in the **Bidding Data**.

## 6. Eligible Material

- a. Eligible material shall be from a reputed manufacturer and acceptable to the Engineer.
- b. Bidder shall furnish documentary evidence to prove that material shall be from a reputed manufacturer.

## 7. Cost of Bidding

Bidder shall bear all costs associated with the preparation and submission of its bid.

Employer will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

## 8. Site Visit

**8.1** The bidder, at the bidder's own responsibility and risk is encouraged to the followings:

- Bidders are strongly advised to visit the site during 0900h to 1600h and acquaint themselves about site/office conditions, surrounding and all available working conditions and facilities.
- To obtain all information that may be necessary for the preparation of the bid and entering into a contract for janitorial services.
- Costs of visiting the site shall be at the bidder's own expense.
- Contact person for details are as stated in the Bidding Data.

## **Bidding Documents**

### **9. Content of Bidding Documents**

Bidding document consist of following documents:

- Invitation for Bids
- Section 1 : Instructions to Bidders
- Section 2 : General Conditions of Contract
- Section 3 : Form of Bid and Qualification Information
- Section 4: Schedules (Bidding data and Contract Data)
- Section 5 : Specifications, janitorial tasks and work schedule
- Section 6 : Schedule of Day Works
- Section 7 : Drawings
- Section 8 : Bills of Quantities
- Section 9 : Standard Forms
- Section 10 : Appendices

### **10. Clarification of Bidding Documents**

**10.1** A bidder requiring any clarification of the bidding documents shall contact the employer in writing of facsimile at the Employer's address indicated in the **Bidding Data**

**10.2** Employer will respond in writing to any such request for clarification received no later than seven (7) Days prior to the deadline for submission of bids.

**10.3** Copies of Employer's response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry but without identifying its source.

### **11. Amendment of Bidding Documents**

**11.1** At any time prior to the deadline for submission of bids, the Employer may amend the bidding documents by issuing addenda;

**11.2** Any addendum thus issued shall be part of the bidding documents;

**11.3** Any addendum shall be communicated in writing or by facsimile to all purchasers of the bidding documents.

## **Preparation of Bids**

- 12. Language of Bid**            The bid as well as all correspondence and documents relating to the bid exchanged by the bidder and the Employer, shall be written in English language.
- 13. Documents Comprising the Bid**            Each bidding document submitted by the bidder shall comprise the following components.
- a. Duly perfected set of bidding documents which include Section 1 to Section 10.
  - b. Subsequent addendum/addenda (if any);
  - c. Documentary evidence established in accordance with Clause 5 here off to prove that the Bidder is eligible and is qualified to perform the contract of his bid is accepted;
  - d. Documentary evidence to prove that all materials are from a reputed manufacturer;
  - e. Bid security furnished in accordance with Clause 17 of ITB and as per the specimen form included in the bidding document (Original Bid Security shall be furnished with the bidding document, Photocopy shall be attached to the copy of the bidding document);
  - f. Proof of authorization for the signatory to the Bid as specified in the ITB;
  - g. Details of similar works carried out during last three years in the form stipulated in Appendix 1;
  - h. Financial details of Bidder in the form stipulated in Appendix 3;
  - i. Authorization to seek bank reference from bidder's bankers in the for stipulated in Appendix 3A;
  - j. Details credit facilities in the form stipulated in Appendix 3B;
  - k. Duly completed schedule of Labour, Material, Plant and Equipment form stipulated in the Appendix 2.

#### **14. Bid Prices**

- 14.1** The contract is for the whole works and services , summarized in the Bill of Quantities ;
- 14.2** The bidder shall fill-in rates and prices for all items of the Works/services described in the bill of quantities;
- 14.3** Items for which no rates or prices is entered by the bidder shall be deemed covered by the other rates and prices in the Bill of Quantities;
- 14.4** All duties, taxes and other levies payable by the Contactor under this contract, or for any other cause, as of the date 14 Days prior to the dead line for submission of bids, shall be included in the rates, prices, and Bid price submitted by the bidder;
- 14.5** VAT component shall not be included in the rates. The amount written in the Form of Bid shall be without VAT. VAT shall be shown separately in the Summary of the Bills.
- 14.6** The Contract is not subjected to any price adjustment .
- 14.7** If a Bidder has given a discount of his bid price, the discount shall be distributed to each and every item in the Bills of Quantities by adjusting the rates in the Bills of Quantities by the percentage of discount offered. This rate is applicable for all extra works to complete the works in the Contract.

#### **15. Currency of Bid and Payment**

Contract Prices shall be quoted and paid in Sri Lanka Rupees.(LKR)

#### **16. Period of Validity of Bids**

- 16.1** The Bid shall be valid for a period stipulated **in the Bidding Data** from the date closing of the bids.
- 16.2** A bid valid for a shorter period shall be rejected by the Employer.
- 16.3** In exceptional circumstances, prior to expiry of the period of validity of bids, the Employer may request that the bidders extend the period of validity for a specified additional period;
- 16.4** A bidder agreeing to the request will not be required or permitted to modify its bid, but will be required to extend the validity of its bid security for the period of the extension and in compliance with Clause 16 in all response.

## 17. Bid Security

Bid shall include a Bid Security as part of this bid.

Bid Security which is encashable on demand equivalent to the sum specified **in the Bidding Data** in the form included in the Section 9 Bidding Document and shall be valid until the date specified **in Bidding Data** from an agency stipulated **in Bidding Data** shall be included with the bid.

Any bid not accompanied by a substantially responsive bid security in accordance with this clause, shall be rejected by the Employer.

The bid security of unsuccessful bidders shall be returned promptly upon the successful bidder furnishing the performance security.

The bid security may be forfeited;

- a). If a bidder withdraws its bid during the period of the bid validity specified by the bidder on the Form of Bid: or
- b) if the bidder does not accept the correction of its bid price pursuant to ITB Clause 29
- c) if the successful bidder fails within the time to;
  - i) sign the contract or
  - ii) furnish the required performance security.

## 18. Alternative

### Bids by Bidders

Each set of bidding documents shall contain only one offer. All alternative offers will be rejected without assigning reasons. If offers marked as offer 1, 2 etc., offer 1 will be treated as the original offer and others as alternative offers. Bidders may purchase bidding documents in required numbers and may submit one or more independent offers. The independent offers shall be in separate set of bidding documents together with separate bid securities.

## 19. Pre-Bid Meeting

The bidders authorized representative is invited to attend a pre-bid meeting which is stated **in Bidding Data**.

## 20. Format and Signing of Bid

- 20.1** The bidder shall prepare one ORIGINAL of the documents comprising the bid as described in Clause 21 above and clearly marked "ORIGINAL";
- 20.2** In addition, the bidder shall submit one copy of the Bid, clearly marked as "COPY";
- 20.3** In the event of discrepancy between them, the original shall govern;
- 20.4** The original and the copy of the bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the bidder.

**20.5** The bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the bidder, in which case such corrections shall be initialed by the person or persons signing the bid.

### **Submission of Bids**

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

**21.1** The bidder shall seal the original and the copy of the bid in two inner separate envelopes and one outer envelope, duly marking the inner envelopes as “ORIGINAL” and “COPY”.

**21.2** The inner and outer envelopes shall

- a) Be addressed to the Employer at the address provided **in Bidding Data**.
- b) Bear the name and identification number of the contract in accordance with **Bidding Data**;
- c) Provide a warning not to open before the specified time and date for bid opening as defined **in Bidding Data**.

**21.3** In addition to the identification required above, the inner envelopes shall indicate the name and address of the bidder to enable the bid to be returned unopened in case it is declared late.

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

Bids shall be delivered to the Employer at the address specified **in Bidding Data** no later than the time and date stipulated **in Bidding Data**.

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

Any bid received by the Employer after the deadline for submission of bids will be returned unopened to the bidder.



**24. Modification &  
Withdrawal of  
Bids**

- 24.1** The Bidder may modify or withdraw his Bid after submission, provided that the modification or notice of withdrawal is received in writing at the address designated to receive Bids prior to the prescribed deadline in Clause 22 hereof for submission of Bids.
- 24.2** The Bidder's modification or notice of withdrawal shall be prepared, sealed, marked and delivered in duplicate in accordance with the provisions of Clause 22 hereof for the submission of Bids, with the inner and outer envelopes additionally marked "MODIFICATION" or "WITHDRAWAL" as appropriate.
- 24.3** Subject to Clause 27 hereof, no Bid may be modified subsequent to the deadline for submission of Bids.
- 24.4** Withdrawal of a Bid during the interval between the deadline for submission of Bids and expiration of the period of Bid validity specified by the Bid shall result in the forfeiture of the Bid security pursuant to Clause 17 hereof.
- 24.5** Bidders may offer discounts but shall specify the items for which discounts are made. In case the Bidder offers discounts without mentioning the items for which discounts are made then the discount will be applicable proportionately to all items except provisional sum(s). Bidders may modify the prices of their Bids by submitting Bid modifications in accordance with this Clause 24, or included in the original Bid submission.

## **Bid Opening and Evaluation**

### **25. Bid Opening**

**25.1** Bids will be opened in the presence of the bidders' representatives who choose to attend at the time and in the place specified in the IFB;

**25.2** The envelope marked as "Original" will be opened. If no envelope is marked as "Original" the Employer may open one or more envelopes;

**25.3** The bidders' names, the Bid prices, the total amount of each bid, any discounts, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening;

**25.4** No bids shall be rejected at the bid opening except for the late bids.

### **26. Process to be confidential**

Information relating to any details of the Bids and recommendations for the award of a contract shall not be disclosed to bidders or any other person not officially concerned with such process until the award to the successful bidder has been announced.

### **27. Clarification of Bids**

**27.1** During the evaluation of the bids, there may be a need to seek clarification from a bidder with the sole purpose of ensuring that the Bid can be properly and fairly evaluated. These clarifications should not

(a) permit any substantive change to the bidder's initial response ; and

(b) change in the Bid price except correction of arithmetical errors in the pricing of the bid.

**27.2** The bidder should not be able to clearly comprehend that any clarification sought is only for the aforementioned purpose only.

**27.3** At the request made by the Technical Evaluation Committee (TEC), the procurement Entity (PE) will seek such clarification from the bidder in writing.

**28. Examination of Bids and Determination of Responsiveness**

**28.1** Prior to the detailed evaluation of bids, the Employer will determine whether each bid:

- (a) meets the eligibility criteria;
- (b) has been properly signed and accompanied by a proper power-of-attorney
- (c) has accompanied with the required bid security according to Clause 17.
- (d) is substantially responsive to the requirements of the bidding documents
- (e) If a bid does not meet any one of the requirements (a) to (d) stated above, it will be considered substantially non responsive and rejected by the Procurement Committee.

**28.2** A substantially responsive bid is one which confirms to all the terms, conditions, and specifications of the bidding documents, without material deviations or reservation which affect unfairly the competitive position of other bidders presenting substantially responsive Bids.

**28.3** If a bid is not substantially responsive;

- (a) It will be rejected by the Employer
- (b) And may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

**29. Correction of Errors**

**29.1** Bids determined to be substantially responsive will be checked for any arithmetic errors;

**29.2** Errors will be corrected as follows:

- (a) Where there is a discrepancy between the amounts in figures and in words, the amount in words will govern;
- (b) Where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected;
- (c) If the bid price changes by the above procedure, the amount stated in the Form of Bid shall be adjusted with the concurrence of the bidder and shall be considered as binding upon the bidder;

- (d) If the bidder does not accept the corrected amount of bid, its bid shall be rejected and the bid security may be forfeited or bid-securing declaration executed in accordance with Clause 17.

**30. Evaluation and Comparison of Bids**

**30.1** The Procurement Committee will evaluate and compare Bids previously determined to be substantially responsive, pursuant to Clause 28 hereof.

**30.2** In evaluating the Bids the Procurement Committee will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:

- a) Making any correction of errors pursuant to Clause 29 hereof.
- b) Discounts, if any disclosure in the Bid opening
- c) Evaluation of Acceptable omissions ( line items or parts of work)
- d) Delivery periods or completion times
- e) Adjustment for various minor deviations
- f) Assessment of monetary implications on deviations and other matters.
- j) Omissions/Missing items

The bid price should be adjusted to account for items not included in the bid, provided that the bid,

- i Can be accepted as substantially responsive on account of the unquoted items being not of a critical nature, and
- ii Value of such items is marginal

**30.3** For the evaluation purposes the rates and prices in the BOQ will be considered to be excluding VAT. Any notes or remarks by Bidders contrary to this will be disregarded.

## **Award of Contract**

- 31. Award of Contract** Subject to Clause 32 of ITB, Employer will award the contract to the bidder whose bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid Price, provided that such bidder has been determined to be;
- a) Eligible in accordance with the provisions of Clause 5.1; and
  - b) Qualified in accordance with the provisions in Clause 5.2
- 32. Employer's Right to Accept Any Bid and to Reject Any or all Bids** Employer reserves the right to;
- (a) Accept or reject any bid;
  - (b) Annul the bidding process; and
  - (c) Reject all bids;
- at any time prior to the award of contract without thereby incurring any liability to the affected bidder(s).
- 33. Notification of Award**
- 33.1** Prior to the expiration of the bid validity period, the Employer will notify the successful bidder that his bid has been accepted.
- 33.2** The letter ("Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of providing the services by the Contractor as prescribed by the contract. ("Initial Contract Price").
- 33.3** The notification of award will constitute the formation of the Contract;
- 33.4** Upon the successful Bidder's furnishing of performance security in accordance with the provisions of Clause 36 hereof, the Board shall promptly notify each of the unsuccessful Bidders and shall discharge their Bid Securities, pursuant to Clause 17 hereof.
- 34. Board's Right to vary Quantities at the Time of Award**
- 34.1** The Board reserves the right at the time of Award of Contract to increase or decrease by up to 25 percent the quantity of Goods and Services specified in the Bills of Quantities without any change in unit rates or other terms and conditions including discounts offered.
- 35. Signing of Agreement**
- 35.1** The agreement shall be signed within 14 days from the date of the letter of acceptance at the office as stated in the Bidding Data.

**36. Performance  
Security**

**35.2** If a Bidder has given a discount of his bid price, the discount shall be distributed to each and every item in the Bills of Quantities by adjusting the rates in the Bills of Quantities by the percentage of discount offered. Contractor shall adjust all BOQ Rates deducting the discounted amount and shall endorse with the Contractor's Signature. This rate is applicable for all extra works to complete the works in the Contract.

**36.1** Within fourteen (14) Days of the receipt of the notification of the acceptance of the contract by the Board, the successful Bidder shall furnish to the Board a Performance Security encashable on demand in accordance with the Conditions of Contract, in the format of Performance Security provided in the Bidding Document. The amount of Performance Security shall be as specified in the Bidding Data.

**36.2** The Security shall be issued as stated below from any one of the following forms.

a) A Bank Guarantee issued by a Bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka.

b) A fixed deposit or a pass book of a Bank operating in Sri Lanka approved by the Central bank of Sri Lanka, with deposits made in the name of the National Water Supply and Drainage Board, Sri Lanka.

c) A Sri Lanka Rupee cash deposit to the National Water Supply & Drainage Board, Sri Lanka.

d) A certified cheque issued by a Bank operating in Sri Lanka approved by the Central Bank of Sri Lanka, in favour of National Water Supply & Drainage Board, Sri Lanka.

e) A Bank Guarantee issued by a Bank based in another country but the security or guarantee "confirmed" by a Bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka.

However, the requirement of confirmation of performance guarantees issued by a bank based in another country, by a bank operating in Sri Lanka is not necessary, if the entity that

issues the guarantee is an Export Credit Agency of any foreign government or a reputed International Financier acceptable to the Central Bank of Sri Lanka.

**The term “confirmed” in relation to bank guarantee issued by a bank based in another country means that the “confirmed” bank held liable for paying the respective guaranteed amount at the request of first demand by the beneficiary.**

**36.3** On due performance of the contract in all respects and issuance of the Final Acceptance Certificate by the Engineer the Performance Security shall be returned to the Contractor without any interest.

**36.4** Failure of the successful Bidder to comply with the requirements of Clause 35 and Clause 36 hereof shall constitute sufficient grounds for the breach of contract and annulment of the award and forfeiture of the Bid security, in which event the Employer may resort to award the contract to the next lowest evaluated responsive Bidder or call for new Bids at the discretion of the Employer.

**37. Advance  
Payment**

No advance payment will be made.

## **2. CONDITIONS OF CONTRACT**



## 2. CONDITIONS OF CONTRACT

Conditions of  
Contract Clause  
Reference

### General Provisions

- 1. Definitions** In the contract as defined below, the words and expressions defined shall have the following meanings assigned to them, except otherwise stated elsewhere.
- 1.1 The Contract** The contract is the contract between the Employer and the Contractor to execute the Janitorial Services and shall include the documents listed in Clause 2 below.
- 1.2 Specification** Specification means the specification of the services included in the contract and any modifications or additions assigned by the Engineer.
- 1.3 Initial Contract price** Initial contract price is the price stated in the letter of acceptance.
- 1.4 Letter of Acceptance** Letter of acceptance means the letter signed and issued by the Employer accepting the Bid submitted by the Contractor for the execution and completion of the services.
- 1.5 Drawings** Drawings mean the Employer's drawings of the services and any variations to such drawings.
- 1.6 Employer** Employer means the party named in the Bidding Data, who employs the contractor to carry out the services.
- 1.7 Contractor** Contractor means the person who bids to carry out the services has been accepted by the Employer and named in the Agreement.
- 1.8 Engineer** Engineer is the person named in the Contract Data who is responsible for administrating and supervising the execution of the services.
- 1.9 Scope of Work** Scope of work shall be as stated in the Contract Data.

### Dates, Times and Periods

- 1.10 Start Date** Start Date shall mean as specified in the Contract Data.
- 1.11 Day** Day means the calendar day.
- 1.12 Money and Payments- Cost** Cost means all expenditure properly incurred by the contractor, whether on or off the site, including overheads and similar charges, but does not include profit.
- 1.13 Plant and equipment** Means all apparatus, plant, machinery, vehicles, facilities and other things required for the execution of the Janitorial Services but not include materials.

- 1.14 Materials** Materials means things of all kinds intended to form or forming part of the works and services
- 1.15 Site** Site means the places provided by the Employer where the services are to be executed and any other places specified in the contract as forming part of the site.
- 1.16 Services** Services mean all the work and services to be performed by the contractor specified in the scope of work, Bill of quantities, specifications etc. including temporary work and any variation.
- 1.17 Variation** Variation means a change to the scope of work, specification and/or Drawings and/or Bill of Quantities which is instructed by the Engineer.
- 2. Priority of Documents** The documents forming the contract are to be taken as mutually explanatory of one another;
- If any ambiguity or discrepancy is found in the documents, the Engineer shall issue any necessary instructions to the Contractor.
- The priority of the documents shall be in accordance with the order as listed below;
1. The contract agreement
  2. Addendum/addenda issued prior to signing the agreement
  3. The letter of acceptance
  4. The Contractors bid
  5. Contract Data
  6. Conditions of Contract
  7. Specifications
  8. Drawings
  9. Bills of Quantities
- 3. Law** The laws of the Democratic Socialist Republic of Sri Lanka is applicable.
- 4. Communications** Communication by any person under the contract shall be in English.

## **The Employer**

- 5. Execution of Contract** The Employer shall ensure that the Contract is commenced and executed within 14 days after the date of the Letter of Acceptance.
- 6. Provision of site** The Employer shall provide the site and right of access before the start date.
- 7. Engineer's Instructions** The Contractor shall comply with all instructions given by the Engineer in respect of the Janitorial Services including the suspension of all or part of the services.
- 8. Approvals** No approval or consent or absence of comment by the Employer or the Engineer shall affect the Contractor's obligations

## **The Engineer**

- 9. Engineer's Decisions** Except where otherwise specifically stated, the Engineer shall decide contractual matters between the Employer and the Contractor. Engineer shall coordinate, supervise and administer the contract. He shall approve any variation or modification to the contract.
- 10. Engineer's Representative** Engineer shall nominate a representative to assist the Engineer and to supervise the contract. Engineer may time to time notify the contractor of the Engineers Representative and shall assign or change or remove his duties on the discretion of the Engineer.
- The Engineer's Representative shall be responsible to the Engineer and his duties are to watch and supervise the Janitorial Services and to test and examine any materials to be used or workmanship employed in connection with the Janitorial Services. He shall have no authority to relieve the Contractor of any of his duties or obligations under the Contract nor, except as expressly provided hereunder or elsewhere in the Contract, to order any work involving delay or any extra payment by the Employer, nor to make any variation of or in the Works.
  - The Engineer may from time to time in writing delegate, to the Engineer's Representative any of the powers and authorities vested in the Engineer and shall furnish to the Contractor. Any written instructions or approval given by the Engineer's Representative to the Contractor within the terms of such delegation, but not otherwise shall bind the Contractor and the Employer as though it had been given by the Engineer provided always as follows;

- a) Failure of the Engineer's Representative to disapprove any Services or materials shall not prejudice the power of the Engineer thereafter to disapprove such services or materials and to order the pulling down, removal or breaking up thereof.
- b) If the Contractor shall be dissatisfied by reason of any decision of the Engineer's Representative, he shall be entitled to refer the matter to the Engineer, who shall thereupon confirm, reverse or vary such decision.
- c) The Engineer's Representative shall take every possible course of action to study technical and contractual details well in advance so that technical and contractual disparities in drawing, contract document material and actual site conditions that may give rise to contractual variations should be identified in time.
- d) The Engineer's Representative shall prepare all details on variations that arise and require approval for their execution as defined in Clause 21 and submit to the Engineer in such form and in such numbers along with supporting documents as the Engineer may prescribe from time to time.
- The Engineer or Engineer's Representative may appoint any number of persons to assist the Engineer's Representative in the carrying out of his duties. He shall notify the Contractor the names, duties and the authority of such persons. Such assistants shall have no authority to issue any instructions to the Contractor save in so far as such instruction may be necessary to enable them to carry out their duties and to secure their acceptance of materials, plant or workmanship as being in accordance with the contract and any instructions given by them for these purposes shall be deemed to have been given by the Engineer's Representative.

## The Contactor

### 11. General Obligations

The Contractor shall

- 11.1 Carry out the Services properly and in accordance with the Contract
- 11.2 Shall provide all supervision, labour, materials, plant and equipment which may be required to carryout all the services.
- 11.3 The Contractor may be required to properly uniform all service personnel in order to present a clean and neat appearance at all times. The Contractor shall have all service personnel supplied with badges, which shall include, at a minimum, a photo, employee name, and firm.

The Contractor should provide a list of names with a photograph and with specimen signature to the authorized officer appointed by the Engineer for the approval. He/She shall periodically verify passes with employees. Failure to provide the requisite Identification cards and for the service personnel (If any person) without uniforms shall result in reduction from payment to the Contractor equal to 0.1% of the monthly payment for each day the card has not been submitted or not been wearing the uniform.

The Contractor shall not employ any person or persons in or about the premises who use improper language or act in a loud or boisterous or otherwise improper manner. Personnel deemed unacceptable by the NWSDB shall be replaced within 24 hours.

All supervisors and service personnel assigned shall be trained.

Employees of the Contractor, while performing work under the contract will not:

- a. Remove any NWSDB personal property, equipment, money, forms or any other items from the NWSDB premises.
- b. Engage in loud or boisterous behavior.
- c. Be under the influence of alcohol or drugs.
- d. Gamble
- e. Turn on or off or use any equipment other than the Contractor's equipment.
- f. Use any NWSDB telephone.
- g. Open any desk, file cabinet or storage cabinet.

- h. Remove any articles from desks.
- i. Sleep on the job.
- j. Take photographs of the facility or its contents.

**11.4 Water and Electricity**

Water and Electricity available at the office shall be used for the services required to be carried out under this contract.

**11.5 Plant and Equipment**

- Brooms, brushes, mops, rags, waxes, and other janitorial supplies and all power equipment such as floor machines, vacuum systems, and all other equipment shall be provided by the Contractor.
- Mechanical or other equipment used in the cleaning operations must be of a type that is approved by the industry and shall be operated in such a manner as not to cause danger of any nature to employees or other persons or damage to the building structure, fixture, furnishings, etc. It is the whole responsibility of the Contractor to provide the equipment assigned for this contract in good working condition at all times, or be able to provide “back up” equipment that enables all tasks to be completed as scheduled.

**11.6 Material**

- All cleaning materials used must be of a type that will not have an immediate or extended detrimental effect on any of the surfaces being cleaned and any of employees in the office. Any foreign matter, spills, stains, marks, or residue of any nature on any surface shall be removed during the regular cleaning operation.
- For treatment of various types of flooring, carpeting, etc., only materials recommended and approved by the flooring manufacturers shall be used. It shall be the prime responsibility of the Contractor to protect the Employer’s property at all times, and to use only materials and treatments that will enhance the appearance of the flooring, etc., and preserve the surface against deterioration.

**11.7 Working Hours**

Working hours shall be as stated in the Contract Data.

**12. Contractor’s Representative**

The Contractor shall submit to the employer for consent the name and particulars of the person authorized to receive instructions on behalf of the Contractor.

**13. Subcontracting**

The Contractor shall not subcontract;

- The whole of the works or
- Any part of the works without the approval of the Engineer

## **14. Performance Security**

**14.1** Within fourteen (14) Days of the receipt of the notification of the acceptance of the contract by the Board, the successful Bidder shall furnish to the Board a Performance Security encashable on demand in accordance with the Conditions of Contract, in the format of Performance Security provided in the Bidding Document. The amount of Performance Security shall be as specified in the **Bidding Data**.

**14.2** The Security shall be issued as stated below from any one of the following forms.

- a) A Bank Guarantee issued by a Bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka.
- b) A fixed deposit or a pass book of a Bank operating in Sri Lanka approved by the Central bank of Sri Lanka, with deposits made in the name of the National Water Supply and Drainage Board, Sri Lanka.
- c) A Sri Lanka Rupee cash deposit to the National Water Supply & Drainage Board, Sri Lanka.
- d) A certified cheque issued by a Bank operating in Sri Lanka approved by the Central Bank of Sri Lanka, in favour of National Water Supply & Drainage Board, Sri Lanka.
- e) A Bank Guarantee issued by a Bank based in another country but the security or guarantee “confirmed” by a Bank operating in Sri Lanka, approved by the Central Bank of Sri Lanka

**14.3** On due performance of the contract in all respects and issuance of the Final Acceptance Certificate by the Engineer the Performance Security shall be returned to the Contractor without any interest.

## **Time of Completion**

### **15. Execution of the works**

The Contractor shall commence the services on the start date;  
The Contractor shall mobilize, and provide the Janitorial Services in strict accordance with the Contract to the satisfaction of the Engineer and shall comply with and adhere strictly to the instructions given by the Engineer’s Representative.

**16. Programme** The Contractor shall submit a detailed work programme and details of the workers/janitors assigned for the contract within 7 Days from the Start Date in a form acceptable to the Engineer;

Engineer's Representative shall study and approve the work programme or shall inform the Contractor to modify to suit the scope of the services. Then the Contractor shall do so and re-submit for the approval.

**17. Extension of Time** Engineer may extend the initial contract period for a maximum of six months at the prices stated in the Bill of Quantities. If so extended, Contractor shall execute the contract for the extended period at the quoted prices in the contract.

**18. Completion Certificate** The Employer shall issue a completion certificate at the successful completion of the contract.

### **Remedying Defects**

**19.1 Remedying Defects** 19.1 Engineer shall suspend the whole or part of the contract, if the performance of the contract is not satisfactory. When Engineer ordered, the Contractor shall, at his own cost re- do any services that is completed and/or is being done by him if such services is determined by the Engineer or his representative as not conforming to the specifications.

**19.2** If the Contractor fails to do any such work as aforesaid required by the Engineer, the Engineer shall employ other persons to carry out the same and if such services are which, in the opinion of the Engineer, the Contractor was liable to do at his own expense under the contract, then all expenses consequent thereof or incidental thereto shall be recovered from the Contractor by the Engineer, or may be deducted by the Engineer from any monies due which may become due to the Contractor.

### **Variations and Claims**

**20. Right to vary** The Engineer may initiate variations. The Contractor shall carryout Variations issued by the Engineer.



## **21. Valuation of Variations**

Variations shall be valued as follows;

- a) where appropriate, at rates in the Contract; however, if the final quantity of the work and services done differs from the quantity in the Bills of Quantities for the particular item by more than 25percent, provided the change exceeds one percent of the Initial Contract Price, an appropriate new rates, as may be agreed shall be used for the excess quantity;
- b) in the absence of appropriate rates, the rates in the Contract shall be used as the basis for valuation, or failing which;
- c) at appropriate new rates, as may be agreed or which the Engineer considers appropriate.

## **22. Variation and Claim Procedure**

- The Contractor shall submit to the Engineer an itemized make-up of the value of variations and claims within 28 Days of the instructions or of the event giving rise to the claim;
- The Engineer shall check and negotiate with the contractor to agree on the value. In the absence of agreement, the Engineer shall determine the value.

## **Contract Price and Payment**

## **23. Monthly Statements**

**23.1** The Contractor shall be entitled to be paid at monthly intervals:

- a) the value of the services executed;
- b) adjustments under Clause “Subsequent Legislation”  
subject to any additions or deductions which may be due.

**23.2** Failure to complete the services satisfactorily shall result in reduction of payments for the each relevant item in the BOQ in the monthly payment to the Contractor.(according to the check list in the Specification

All the records stated in Clauses 30.1 and 30.2 will be considered for the monthly payment. Daily return sheet with the certified quality of work should be attached to the monthly payment certificate.

Progress report should be submitted with the interim bill of each month.

## **24. Valuation of the Works and Services**

- The Contractor shall submit each month to the Employer a statement showing the value of the services executed less the cumulative amount certified previously;
- The Engineer shall check the Contractor’s monthly statement and certify the amount to be paid the Contractor, within 14 Days of

the receipt of the Contractor's statement.

- within 14 Days of delivery of each certificate by the Engineer, the Employer shall pay to the Contractor the amount shown in the certificate less amount of retention as stated in the **Contract Data**;
- No deductions shall be made for retention when it reaches the maximum amount of retention as stated in the Contract Data;
- The Employer shall not bound by any sum previously considered by him to be due to the Contractor;
- The Employer may withhold monthly payments until he receives the performance security under Clause 14 hereof.

**25. Release of Retention Money**

Upon the completion of the contract period, the Retention Money shall be released to the Contractor less any dues to the Employer from the Contractor.

**26. Currency**

Payment shall be made in Sri Lanka Rupees only.

**27. Price Adjustment**

No price adjustment shall be paid under this Contract.

**28. Subsequent Legislation**

If after the date 14 Days prior to the latest date of submission of bids for the contract;

- changes in any Statute, Ordinance, Decree, or other Law or any regulation or by-law of any local or other duly constituted authority; or
- introduction of any such State Statute, Ordinance, Decree, Law, regulation or by-law

which cause additional or reduced cost to the Contractor, in the execution of the contract, such additional or reduced cost shall, after due consultation with the Employer and the Contractor, be determined by the Engineer and shall be added to or deducted from the Contract Price and the Engineer shall notify the Contractor accordingly, with a copy to the Employer.

**29. Advance Payment**

No advance payment shall be paid under this contract.

**Default**

**30. Default by Contractor**

Engineer may give notice referring to this clause and stating the default of the Contractor:

- abandons the services;

- refuses or fails to comply with a valid instruction of the Engineer;
- fails to proceed expeditiously and without delay despite a written complaint.

If the Contractor has not taken all practicable steps to remedy the default within 14 Days after the Contractor's receipt of the Engineer's notice, the Employer may by issuing a letter within a 21 Days, terminate the Contract.

Notwithstanding anything to the contrary herein contained if the Contractor commits a breach or violation of any of the terms and conditions herein contained and fails to remedy such breach or violation within 14 Days from the date of receipt of notice of such violation, then the Employer shall terminate the Contract forthwith.

The Contractor shall then demobilize from the site.

If the Contractor has engaged in corrupt or fraudulent practices, in competing for or in executing the Contract, the Employer may, after given 14 Days notice to the Contractor, terminate the contract.

“Corrupt practice means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in Contract execution;

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among bidders (prior to or after the bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition.

## **Risk and Responsibility**

### **31. Contractor's care of the services**

**31.1** The Contractor shall be responsible for all accidents and injury to persons (whether they are employed by the Contractor or NWSDB or otherwise), property, services materials, goods or things. If damaged, disturbed or injured by the Contractor in the course of execution of the said services or in connection therewith then the Contractor shall make good or settle all claims against damages or re-instatement costs, charges and expenses in respect thereof and shall indemnify the Employer from all such claims and responsibilities what so ever is nature for such damages.

In the event of the Contractor failing to compensate for or properly make good any damage as aforesaid or settle any claims, costs, charges and expenses as aforesaid, the Employer shall pay all compensations or do all for making good, or settle all claims, costs, charges and expenses and the cost of such amounts paid shall be deducted from any sum or sums that is due or may become due to the Contractor under the terms of this agreement or otherwise.

### **31.2**

- (a) Subcontractors are prohibited from performing these services under any contractual agreement resulting from this solicitation without the prior approval of the NWSDB.
- (b) The detailed specifications of this contract are intended to cover the cleaning services in a general manner, but may not be complete in all details.
- (c) Any injuries or damages shall be immediately reported in writing to the supervising officer nominated by Engineer.
- (d) Any building facilities equipment, fixtures or furnishings in need of repair or replacement including vandalism shall be reported, in writing, to the supervising officer nominated by the Engineer for corrective action.
- (e) Any articles or items of apparent value found by the employees of Janitorial Service in areas of the building or site shall immediately be handed over to the Supervising officer, nominated by the Engineer.
- (f) Any articles of suspicious nature that may be found, or persons loitering or conducting themselves in a manner to arouse suspicion or possibly in need of help, shall immediately be reported to the police.
- (g) It shall be the Contractor's responsibility to follow the activity schedule outlining all of the frequency cleaning tasks. This activity schedule will be evaluated on an ongoing basis and reviewed with the Contractor on a monthly basis. Any activity schedule changes will need to be reviewed and approved by the Board. If the activity schedule of the frequency cleaning tasks is not being performed by the Contractor/Employee's, it shall be considered as not completed and the Contractor shall not be paid for services not received. This

activity schedule, reflecting a planned periodic cleaning schedule and cleaning schedule time lines must be followed as per the attached schedule.

- (h) The Contractor shall not grant access to any person requesting enter into the building or a specific work area. All requests for enter are to be denied.
- (i) It is the Contractor's responsibility to familiarize himself and his employees as to the requirements of the Contract and to perform all tasks in an acceptable and timely manner. It is not the Engineer's responsibility to remind the Contractor of the Contract requirements. The scope of the Contract and its specifications shall be reviewed regularly by the Supervising officer nominated by Engineer to ensure Contract compliance with all listed tasks and frequencies.

### **32. Employees of the Contractor**

The Contractor shall at his own cost employ all personnel required for the execution of works and services stipulated in this Contract.

The Contractor shall pay all remunerations to personnel employed by him, according to the labour laws of the Government of Democratic Socialist Republic of Sri Lanka, and grant all privileges, benefits, and perquisites, workmen insurance and terminal benefits such employees are entitled to receive under the laws.

Pay Rates shall not be less than the minimum wages specified in the Department of Labour.

All employees employed by the Contractor shall possess evidence of security clearance whenever required, and the Contractor shall ensure that all such employees shall not engage in any unlawful activities and act in anyway in endangering the safety and security of the whole, premises and personnel. The Contractor shall remove any person if found engaged in any such activity immediately.

The Contractor shall not employ any person or persons in or about the premises who use improper language or act in a loud or boisterous or otherwise improper manner.

Personnel deemed unacceptable by the Engineer or his representative shall be replaced within 24 hours.

#### **32.1 Documents to be maintained**

Add following sub clauses;

- a. Log Book
- b. Attendance Register
- c. Daily cleanliness record book for each specified area

d. Book for Janitors detail records monitoring the Programme

### **32.2 Record Keeping**

- a. Maintain attendance register. All personnel employed by the contractor shall sign and enter the time when they enter to the premises and leave the premises. Contractor shall provide the identification number for each person with the specimen signature in the front page of the register.
- b. The person should sign the time in and time out with the identification number. Time in and time out should be signed in two separate rows in the relevant column.
- c. Allocation of Janitors with the working place should be entered and monitored in the log book. Authorization/Certification for satisfactory/modeo rately satisfactory/unsatisfactory from the relevant NWSDB officer to be obtained for each and every job assigned and carried out by the each janitor. Failure to complete the job satisfactorily shall result in reduction the payment for the each relevant item in the BOQ in the monthly payment to the Contractor. (According to the Work Schedule in the Specifications)
- d. All the above records will be considered for the monthly payment. Daily return sheet with the certified quality of work should be attached to the monthly payment certificate.
- e. Progress report should be submitted with the interim bill of each month.

### **32.3 Rates of Wages and Conditions of Labour**

- Wages, and hours and conditions of employment shall be not less favorable than those prescribed for the time being by the Wages Board Ordinance of Sri Lanka and the Contractor shall be bound by the said Wages Board Ordinance concerning his employees of any kind whatsoever.
- The Contractor shall indemnify and keep the Employer indemnified against all claims made under the Sri Lanka's Workmen's Compensation Ordinance No. 19 of 1934 and the Employee's Provident Fund Act No. 15 of 1958 and any statutory amendments thereto or modification thereof. Contractor shall make arrangements to enroll all his employees to Employees Provident Fund and Employee's Trust Fund and any other statutory requirements and pays such sums to these institutions in time.

### **33. Day Works**

- The Contractor shall be paid for such work and services under the conditions set out in the Day work Schedule included in the Contract and at the rates and prices affixed thereto by him in his Bid.
- In respect of all work executed on a Day work basis, the Contractor shall, during the continuance of such work and services, deliver each day to the Engineer's Representative an exact list in duplicate of the names, occupation and time of all workmen employed on such work and a statement, also in duplicate, showing the description and quantity of all materials and plant used thereon or therefore (other than plant which is included in the percentage addition in accordance with the Schedule herein after referred to). One copy of each list and statement will, if correct, or when agreed, be signed by the Engineer's Representative and returned to the Contractor.
- At the end of each month the Contractor shall deliver to the Engineer's Representative a priced statement of the labour, material and Plant except as aforesaid, used and the Contractor shall not be entitled to any payment unless such lists and statements have been fully and punctually rendered.

## **Insurance**

### **34. Insurance**

Contractor shall submit all insurance as specified in the Contract Data prior to commencement of the works.

If Contractor fails to do so, Employer will obtain all Insurance and shall deduct the costs incurred by the Employer from payments due to the Contractor. Until such time all payments to the Contractor shall be with held.

### **35. Safety**

The safety of the employees of the Employer whom become first priority in importance. In this regard, the Contractor shall comply with all safety regulations, as specified by the Department of Labour-Sri Lanka.

## **36. Dispute Resolution**

### **36.1 Amicable settlement**

Any dispute of whatever nature arising out of or in relation to this agreement shall in the first instance be attempted to be resolved by way of amicable settlement by the Employer and the Contractor.

The Employer and the Contractor shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.

If after thirty (30) Days from the commencement of such informal negotiation the Employer and the Contractor have been unable to resolve amicably a contractual dispute, either party may require that the dispute be referred for resolution to the formal mechanism stated in clause 36.2 herein. These mechanisms may include, but not restricted to, condition mediated by a third party, adjudication in an agreed national forum and/or arbitration

### **36.2 Dispute Adjudication Board (DAB)**

#### **36.2.1 Appointment of the Dispute Adjudication Board (DAB)**

Any dispute of whatever nature arising out of or in relation to this agreement shall be referred to a "Dispute Adjudication Board (DAB) for decision The Parties shall appoint a DAB within 28 Days from the Commencement Date.

The DAB shall comprise, three suitably qualified persons ("the members"), who shall be professionals experienced in the type of Works and with the interpretation of contractual documents, one of whom shall serve as chairman.

Within 28 Days from the commencement Date each of the Parties shall appoint one member to serve on the Dispute Adjudication board (DAB). The Parties shall consult both these members and shall agree upon the third member, who shall be appointed to act as the chairman.

The agreement between the Parties and each of the three members shall incorporate by reference the General Conditions of Dispute Adjudication Agreement contained in the Appendix to these Contract Data, with such amendments as are agreed between them.

The terms of the remuneration of the three members, including the remuneration of any expert whom the DAB consults, shall be mutually agreed upon by the Parties when agreeing the terms of appointment of the member or such expert (as the case may be). Each Party shall be responsible for paying one-half of this remuneration.

If a member declines to act or is unable to act as a result of death, disability, resignation or termination of appointment, a replacement shall be appointed in the same manner as the replaced person was required to have been nominated or agreed upon, as described in this Sub-Clause.



The appointment of any member may be terminated by mutual agreement of both Parties, but not by the employer or the Contractor acting alone. Unless otherwise agreed by both Parties, the appointment of the DAB (including each member) shall expire when the Issuing Final Acceptance Certificate.

**36.2.2 Failure to Agree on the Composition of the Dispute Adjudication Board**

If any of the following conditions apply, namely:

- (a) either Party fails to nominate a member of a DAB by such date,
- (b) the Parties fail to agree upon the appointment of the third member (to act as chairman) of the DAB by such date, or
- (c) The Parties fail to agree upon the appointment of a replacement person within 42 Days after the date on which the one of the three members declines to act or is unable to act as a result of death, disability, resignation or termination of appointment.

Then Institute for Construction Training and Development (ICTAD) shall, upon the request of either or both of the Parties and after due consultation with both Parties, appoint this member of the DAB. This appointment shall be final and conclusive. Each Party shall be responsible for paying one-half of the expenses / disbursements incurred by (ICTAD).

**36.2.3 Obtaining Dispute Adjudication Board's Decision**

If a dispute (of any kind whatsoever) arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works, including any dispute as to any certificate, determination, instruction, opinion or valuation of the Engineer, either Party may refer the dispute in writing to the DAB for its decision, with copies to the other Party and the Engineer. Such reference shall state that it is given under this Sub-Clause.

The DAB shall be deemed to have received such reference on the date when it is received by the chairman of the DAB.

Both Parties shall promptly make available to the DAB all such additional information, further access to the Site, and appropriate facilities, as the DAB may require for the purposes of making a decision on such dispute. The DAB shall be deemed to be not acting as arbitrators(s).

Within 84 Days after receiving such reference, or within such other period as may be proposed by the DAB and approved by both Parties, the DAB shall give its decision, which shall be reasoned and shall state that it is given under this Sub-Clause. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below. Unless the Contract has already been abandoned, repudiated or terminated, the Contractor shall continue to proceed with the Works in accordance with the Contract.

If either Party is dissatisfied with the DAB's decision, then either Party

may, within 28 Days after receiving the decision, give notice to the other Party of its dissatisfaction and intention to commence arbitration. If the DAB fails to give its decision within the period of 84 Days (or as otherwise approved) after receiving such reference, then either Party may, within 28 Days after this period has expired, give notice to the other Party of its dissatisfaction and intention to commence arbitration.

In either event, this notice of dissatisfaction shall state that it is given under this Sup-Clause, and shall set out the matter in dispute and the reasons(s) for dissatisfaction. Except as stated in Sub-Clause 36.2.4 [Failure to Comply with Dispute Adjudication Board's Decision] and Sub-Clause 36.2.5 [Expiry of Dispute Adjudication Board's Appointment], neither Party shall be entitled to commence arbitration of a dispute unless a notice of dissatisfaction has been given in accordance with this Sub-Clause.

If the DAB has given its decision as to a matter in dispute to both Parties, and no notice of dissatisfaction has been given by either Party within 28 Days after it received the DAB's decision, then the decision shall become final and binding upon both Parties.

**36.2.4 Failure to Comply with Dispute Adjudication Board's Decision**

In the event that a Party fails to comply with a DAB decision which has become final and binding, then the other Party may, without prejudice to any other rights it may have, refer the failure itself to arbitration under Sub-Clause 36.3 [Arbitration]. Sub-Clause 36.2.3 [Obtaining Dispute Adjudication Board's Decision] shall not apply to this reference.

**36.2.5 Expiry of Dispute Adjudication Board's Appointment**

If a dispute arises between the Parties in connection with, or arising out of, the Contract or the execution of the Works and there is no DAB in place, whether by reason of the expiry of the DAB's appointment or otherwise:

- (a) Sub-Clause 36.2.3 [Obtaining Dispute Adjudication Board's Decision] shall not apply, and
- (b) the dispute may be referred directly to arbitration under Sub-Clause 36.3 [Arbitration]

**36.3**

**Arbitration**

(a) Any dispute of whatever nature arising from, out of or in connection with this agreement, on the interpretation thereof, or the rights, duties, obligations or liabilities of any Party, or the operation, breach, termination, abandonment, foreclosure or invalidity thereof, shall be referred to by either Party to arbitration for final settlement, in accordance with the Arbitration Act No. 11 of 1995, or any amendment thereof,

Venue & Language : The venue of arbitration shall be in Sri Lanka and the proceedings shall be conducted and the award shall be rendered in English language.

