



# STANDARD REQUEST FOR Proposal

## For Selection of Consultants

**Contracting entity:** [insert name of Contracting entity]

**Project/tender name:** [insert project/tender name]

**Tender/Invitation No.:** [insert Tender/invitation No. ]

**Reference of project / tender:** [insert tender reference as stated in Federal Budget]

**Tender date of issue:** [insert date of tender issue]



## INTRODUCTION

The Standard Request for Proposals (SRFP) for the selection of consultants are based on the Standard Documents adopted in the international practices for the selection of consultants. The Standard Document was prepared by participating Multilateral Development Banks (“MDBs”) and reflects what are considered “best practices”.

This SRFP shall be used in accordance with the (dissolved) CPA Order No. 87 of 2004 or any law superseded by it and in accordance with the instructions for implementing the applicable government contracts.



### Notes on SRFP for the Selection of Consultants

The bracketed texts, with a yellow background, such as {notes to contracting entity or Employer} contains instructions to the contracting entity in preparing the SRFP. These notes shall be deleted from the final RFP issued to the invited Consultants.

As for the texts between brackets in italics with gray backdrop such as (*information to be issued by the contracting entity*) it shall be for the completion of the final proposal request that will be sent to the invited consultants.

SRFP can be used with several selection methods, including “Quality-Cost-Based Selection QCBS, Fixed Budget Selection FBS and Least-Cost Selection LCS. When using the SRFP as a standard document, the contracting entity shall estimate the cost and complexity of the task and shall take it into account.

The contracting entity shall specify the method of selection before preparing the SRFP. The contract form corresponding to the task shall be specified. The SRFP contains two forms of contracts: a time-based contract and a lump-sum based contract. The contract form corresponding to the task is selected based on the following conditions:

**Time-Based Contracts:** This form is selected when the scope or duration of the task cannot be determined either because these services are so connected with the tasks of other persons that it is not possible to know the delivery time of these services or because of the difficulty of analyzing the level of effort required of consultants to achieve the objectives of this task. In this type of contract, the consultant provides his services on the basis of time and according to the quality specifications. The dues are determined according to the time that the consultant has done to implement the services on the basis of:

A) What has been agreed upon so that the fees for the consultant’s gross fees are calculated against the unit price (amount) for each individual / month times the total times the consultant made during the implementation of this task, What has been agreed upon so that the fees for the consultant’s gross fees are calculated against the unit price (amount) for each individual / month times the total times the consultant made during the implementation of this task.

B) Refunds shall be calculated based on the actual expenses and / or unit price agreed upon. This type of contract obliges the contracting body to strictly supervise the consultants, as it obliges it to participate daily in carrying out the task.



**Lump-Sum Based Contracts:** This form is selected when it is easy to determine the scope or duration of the task, and where the outputs required from the consultant are clear and specific, and the payments are related to outputs such as reports, maps, bill of quantities, contract forms or electronic software. Managing this type of contract is easier because of the way the implementation of project on a lump-sum basis against the specified range. However, the contractor shall monitor the quality of outputs in the context of the Consultant's task.



## **Brief Description of RFP Content**

### **Part ONE – procedures and requirements of selecting consultants**

#### **Section I: Letter of Invitation**

This section is a form of a letter sent from the contracting entity (the employer) to the consultants who are invited to proposal for the consulting task. This letter includes the short list of the names of the invited consultants, as well as the method of selection to be approved and the instructions or mechanisms that govern the selection of consultants and awarding the contract.

#### **Section II: Instructions to consultants and data sheet**

This Section consists of two parts: “Instructions to Consultants” and “Data Sheet”. “Instructions to Consultants” contains the procedures to be adopted for the selection of consultants as no amendments may be introduced to this part. As for “Data Sheet”, it contains the amendments and information related to the consultative task to be implemented, which refers to the material "Instructions to Consultants". The second section also includes information that helps consultants prepare their proposals. It also includes information about closing and opening proposals, negotiating the contract and awarding the contract.

#### **Section III: Technical Proposal- Tedhnicl Forms**

This Section includes the Technical proposal forms to be completed and delivered by the invited consultants in accordance with the contained instructions in Section II.

#### **Section IV: Financial Proposal and Financial Forms**

This Section includes the financial forms to be completed by the invited consultants, including the consultant’s costing of its technical proposal, to be submitted in accordance with the contained instrucions in Section II.

#### **Section V: Terms of Reference**



This Section indicates a detailed explanation of the scope of services, objectives, goals, specific tasks required to implement the task, the information of task background and the relevant details to the qualifications of the main team in addition to determining the prospected outputs.

Terms of Reference shall not conflict with those contained in Section II.

## **PART TWO - CONDITIONS OF CONTRACT AND CONTACT FORMS**

### **Section 6: Conditions of Contract and Contract forms**

This Section includes two types of contracts for large or complex tasks: a Time-Based Contract and a Lump-Sum Contract. Each type includes General Conditions of Contract (“GCC”) that shall not be amended, and Special Conditions of Contract (“SCC”) that includes specific articles to each contract, approved for the inclusion of amendments or additions to General Conditions of Contract according to the type of task.



## **Standard Request for proposals (SRFP)**

**Section I: Letter of Invitation**

**Section II: Instructions to Consultants**

**Section II: Instruction to Consultants – Data Sheet**

**Section III: Technical proposal – Forms**

**Section IV: Financial Proposal – Forms**

**Section V: Terms of Reference**

**Section VI: GCC, SCC, and Contract Forms**



PART ONE-

**PROCEDURES AND  
REQUIREMENTS OF SELECTION  
OF CONSULTANTS**





## Section I. Letter of Invitation

**Project/Tender name:** *[Insert project/tender name]*

[Letter of Invitation No.]

[Address of Contracting entity and RFP Date of Issue]

*[Name and address of Consultant if independent. In the case of a Joint Venture, insert the name of the Joint Venture and the name of each of the members who form the Joint Venture according to the statement of interest]*

Dear Mr. / Mrs.:

1-The Contracting entity [name of Contracting entity] has allocated funds necessary to pay under the Contract for which this Request for Proposals is issued.

2-The Contracting entity invites qualified consultants to submit proposals for the following consulting services (hereinafter called “Services”) [Project Name with a simple explanation of the required consultancy services]. More details on the Services are provided in the Terms of Reference in SectionV.

3-The following consultants whose names are contained below have been invited for submitting their proposals:

*[list of names and addresses of the invited consultants in case of the presence of joint venture: Full name of joint venture, name of the members constituting the joint venture ad name of the chairman of the joint venture. ]*

4-It is not permissible to transfer this invitation to any other company or Joint Venture.

5-Proposals shall be submitted to the [address of the Contracting entity as set forth in **Data Sheet** 16.8] within a maximum period of time of [the Proposal Submission Deadline stipulated in **Data Sheet** 16.8]. Proposals received after the specified date will be rejected.



6-A Consultant will be selected under [specific method of selection] procedure and under the Technical Proposal as required in the RFP in accordance with the applicable laws and procedures of the Public Government Contracts law in Iraq.

7-The RFP includes the following documents:

- Section I: Letter of Invitation (LOI)
- Section II: Instructions to Consultants (ITC)
- Section II: ITC- Data Sheet
- Section III: Technical Proposal – Standard Forms
- Section IV: Financial Proposal – Standard Forms
- Section V: Terms of Reference
- Section VI: GCC, SCC, and Contact forms

8-Please notify us [*date of notification*] in writing at [*address of notification*]:

(A) That you have received the Letter of Invitation; and

(B) Whether you intend to submit a proposal alone or in Joint Venture with other consultants as per the terms of the **Data Sheet** 13.1.1.

Name	:	[Name of Contracting entity's authorized representative]
Contracting entity	:	[ Name of Contracting entity]
Signature	:	
Date	:	



## Table of Contents

### Instruction to Consultants

1	Definitions.....	12
2	Introduction.....	13
3	Conflict of Interest.....	14
4	Unfair Competitive Preference.....	15
5	Practices of Corruption and unlawful acts .....	15
6	Eligible Consultants.....	16
7	Cost of Preparation of Proposal.....	17
8	Language.....	17
9	Proposal Documents.....	18
10	Only One Proposal.....	18
11	Proposal Validity period.....	18
12	Clarification and Amendment of RFP.....	19
13	Preparation of Proposals-special considerations.....	20
14	Technical Proposal Format and Content.....	21
15	Financial Proposal.....	21
16	Submission, Sealing, and Marking of Proposals.....	22
17	Confidentiality.....	24
18	Opening of Technical Proposals.....	24
19	Opening of Financial Proposals.....	26
20	Proposals Analysis.....	26
21	Technical Proposals Analysis.....	26
22	Financial Proposals Analysis on section basis.....	27
23	Correction of Errors.....	27
24	Taxes.....	28
25	Adoption of Single Currency.....	28
26	Negotiations.....	28
27	Termination of Negotiations.....	29
28	Award of Contract.....	30
29	Complaints and appeals.....	30
30	Signing of Contract.....	30
31	Good Performance Guarantee.....	31



## Section II – Instructions to Consultants

### First-General

#### 1. Definitions:

- A. “**Employer**” means the Contracting entity (Contracting Entity) that signs the Contract for the Services with the Selected Consultant according to the applicable Iraqi laws.
- B. “**Consultant**” means any consulting firm, company, or an individual, selected by the Contracting entity to provide the Services under the signed Contract in accordance with applicable Iraqi laws.
- C. “**Contract**” means a legally binding written agreement signed between the Contracting entity and the Consultant and includes all the attached documents listed in its Clause 1 (the General Conditions of Contract GCC, the Special Conditions of Contract SCC, and the Appendices).
- D. “**Data Sheet**” means an integral part of Section I that is used to reflect specific task/project conditions to supplement, but not to over-write, the provisions of the ITC.
- E. “**Day**” means a calendar day.
- F. “**Experts**” means, Key and non-key experts & employees (professionals and assisting workers) provided by the consultant, any sub-consultant or JV Partner.
- G. “**Government**” means the Iraqi Government.
- H. “**Joint Venture (JV)**” means an association of more than one Consultant where one member has the authority to conduct all business for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally be liable to the Contracting entity for the performance of the Contract. The JV also means "partnership contracts" wherever mentioned herein.
- I. “**Key Expert(s)**” means an individual professional whose skills, qualifications, knowledge, and experience are critical to the performance of the Services under the Contract and whose CV is taken into account in the analysis of the technical proposals of the consultant’s proposal.
- J. “**Instructions to Consultants (ITC)**” means the Instructions to Consultants that provides the Consultants with all information needed to prepare their proposals.
- K. “**Letter of Invitation**” means the Letter being sent by the Contracting entity to the Consultants within the shortcut list.



- L. “**Non-Key Experts**” the experienced persons who are provided by the consultant or secondary consultant (in-house) to implement the services or any part thereof within the contract and their CV is not taken into consideration.
- M. “**Proposal**” means the Technical and the Financial Proposals of the Consultant.
- N. “**RFP**” means the Request for Proposals to be prepared by the Contracting entity for the selection of Consultants.
- O. “**Services**” means the work to be performed by the Consultant pursuant to the Contract.
- P. “**Sub-consultant**” means any person, institution or company, with which the consultant concludes a sub-contract for implementing any part of the services, the consultant shall remain liable solely for the execution of the contract.
- Q. “**Initial Signature**” means, according to the context, either (1) a brief signature of the person authorized to sign, or (2) a brief signature of the person authorized to sign the contract, but the contract validity is conditional on the approval of a superior.
- R. “**Terms of Reference**” means the Terms of Reference that explain the objectives, scope of work, tasks, and tasks to be performed, respective responsibilities of the Contracting entity and the Consultant, and expected results and deliverables of the task.

## 2. Introduction:

- 2.1 The Contracting entity named in the Data Sheet intends to select a Consultant from those listed in the Request for Proposals (RFP), in accordance with the method of selection specified in the Data Sheet.
- 2.2 The Consultants listed on the shortlist are invited to submit a Technical and Financial Proposals, or a technical proposal only, as specified in the **Data Sheet**, for consulting services required for the task named in the **Data Sheet**. The Proposal will be the basis for negotiating and ultimately signing the Contract with the selected Consultant.
- 2.3 The Consultants should familiarize themselves with the local conditions and take them into account in preparing their Proposals, including attending a pre-proposal conference if one is specified in the **Data Sheet**. Attending any such pre-proposal conference is optional and is at the Consultants’ expense.



2.4 The Contracting entity will timely provide, at no cost to the Consultants, the inputs, relevant project data, and reports required for the preparation of the Consultant's Proposal as specified in the Data Sheet.

### **3. Conflict of Interest:**

3.1 The Consultant is required to provide professional, objective, and impartial advice, at all times holding the Contracting entity's interests paramount, strictly avoiding conflicts with other tasks or its own corporate interests, and acting without any consideration for future work.

3.2 The Consultant has an obligation to disclose to the Contracting entity any situation of actual or potential conflict that impacts its capacity to serve the best interest of its Contracting entity. Failure to disclose such situations may lead to the disqualification of the Consultant or the termination of its Contract.

3.2.1 Without limitation on the generality of the foregoing, the Consultant shall not be hired under the circumstances set forth below:

#### **A. Conflicting Activities**

A firm, or any of its branches contracted by the contracting entity to provide non-consulting goods, works or services for a project, will lose the pre-qualification to provide consulting services resulting from these goods or works or services that are not consulting or directly related to it. Conversely, any institution, or any of its subsidiaries, has been contracted to provide consulting services for the preparation or implementation of a project, inspecting pre-qualification in the provision of goods, works, or non-consulting services resulting from the consulting firm's services for such preparation, implementation, or directly related thereto.

#### **B. Conflicting assignments**

No Consultant (including its Experts and Sub-consultants) or any of its Affiliates shall be hired for any task that, by its nature, may be in conflict with another task of the Consultant for the same or for another Contracting entity.



### C. Conflicting Relationships

A Consultant (including its Experts and Sub-consultants) that has a close business or family relationship with a professional staff of the Contracting entity, who are directly or indirectly involved in any part of (a) the preparation of the Terms of Reference for the task, (b) the selection process for the Contract, or (c) the supervision of the Contract, may not be awarded a Contract, unless the conflict stemming from this relationship has been resolved in a manner acceptable to the Contracting entity throughout the selection process and the execution of the Contract.

## 4. Unfair Competitive Preference

### 5. Practices of Corruption and unlawful acts

5.1 It is the Contracting entity's policy to require that Consultants, suppliers, contractors, and their personnel observe the highest standard of ethics during the selection and execution of such contracts. In pursuance of this policy, the Contracting entity:

a) The contacting entity defines, "fraud and corruption" according to the relevant applicable Iraqi laws. The contracting entity will also be guided by the terms set forth below as follows:

- (1) "Corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any other entity;
- (2) "Fraudulent practice" is the otask or misrepresentation of facts that misleads, or attempts to mislead, the other party to obtain a financial gain or other benefit or to avoid an obligation;
- (3) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to influence improperly their actions;
- (4) "Collusive practices," means a scheme or arrangement between two or more parties, designed to achieve an illegitimate objective such as influencing improperly the actions of another party;



(5) “Obstructive practices” means destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators deliberately in order to materially impede the Contracting entity's investigations into allegations of a corrupt, coercive or collusive practice: and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation procedures.

- b) The contracting entity will reject any proposal that has been recommended for awarding the contract to it if it becomes clear that the consultant who won the recommendation was involved, directly or through an agent, in practices of corruption, fraud, oppression, complicity or obstruction during his proposaling for the contract in accordance with the applicable Iraqi laws.
- c) **The legal procedures will be taken in accordance with the laws against the consultant or his partners or an individual who has been purified for awarding the tender**, including the consultant’s declaration of incapacity, either for an indefinite period or for a specified period of time, to participate in any of the contracting tasks for contracts funded by the contracting entity, if It became clear at any time to the competent Iraqi authorities in this regard, that the consultant was involved, either directly or through an agent, in practices of corruption, fraud, collusion, oppression or obstruction during competition for the contract or during the implementation of that contract funded by the contracting entity.
- d) The contracting entity shall be entitld to include within the tender dcuments and financed contacts a condition that require the consultants, suppliers and contractors to allow the competent Iraqi Authorities to inspect its accounts, records and other documents relating to the submission of a Proposal or performance of the Contract, and to refer these documents to auditing with auditors assigned by the competent authorities in accordance with the Iraqi laws in force.

## 6. Eligible Consultants

6.1 The consultant and all parties who constitute it shall be of the nationality of any country whatsoever, with the exception of those that the Republic of Iraq prohibits commercial relations with them under the law and official instructions. A consultant is considered to possess the nationality of the country if this consultant himself or any of his branches is a citizen, founder, participant or registered and works in this country according to the laws of the country in force.





6.2 All consultants lose their eligibility if they are in a conflict of interest situation. Consultants are in a position of conflict of interest in accordance with Clause 3 of the Instructions to Consultants, **and if they submit more than one proposal during the contracting process**. Nevertheless, this does not restrict the participation of Sub-consultants with more than one proposal.

6.3 Pre-eligibility shall preclude any Consultant under a declaration of ineligibility in accordance with ITC Clause 3 upon the entitlement of awarding the Contract. The list of ineligible consultants can be followed in the Ministry of Planning's "blacklist".

6.4 The Consultant shall provide evidence to demonstrate the continuity of its eligibility in a manner acceptable to the Contracting entity and in accordance with the reasonable requirements of the Contracting entity.

6.5 Public sector employees cannot participate directly or indirectly in public tenders.

## **Second – Preparation of Proposals**

### **7. Cost of Preparation of Proposal**

7.1 The Consultant shall bear all costs associated with the preparation and submission of its Proposal, and the Contracting entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the selection process. The Contracting entity is not bound to accept any proposal, and reserves the right to annul the selection process at any time prior to Contract award, without thereby incurring any liability to the Consultant. In the case of cancellation, all proposals shall be returned to the Consultants and the cost of the RFP document (if any) shall be refunded to the Consultant.

### **8. Language**

8.1 The Proposal, as well as all correspondence and documents relating to the Proposal exchanged between the Consultant and the Contracting entity, shall be written in the language(s) specified in the Data Sheet. The proposalder may submit any of the supporting documents and publications attached to the proposal, which form part of the proposal in another language provided that it is accompanied by an



accurate translation of its texts into the tender language.

## **9. Proposal documents**

9.1 The proposal shall comprise the documents and forms listed in the **Data Sheet**. It is also expected that the RFP will be read with the definitions specified in the GCC.

## **10. Only One Proposal**

10.1 The Consultant (including the individual members of any Joint Venture) shall submit single Proposal, either in its own name or as part of a Joint Venture in another Proposal. If a Consultant, including any Joint Venture member, submits or participates in more than one proposal, all such proposals shall be disqualified and rejected. This does not, however, preclude a Sub-consultant, or the Consultant's staff from participating as Key Experts and Non-Key Experts in more than one Proposal when circumstances justify and if stated in the **Data Sheet**.

## **11. Proposal Validity period**

11.1 The **Data Sheet** indicates the period during which the Consultant's proposal shall remain valid after the Proposal submission deadline.

11.2 During this period, the Consultant shall maintain its original Proposal without any change, including the availability and (readiness) of the Key Experts, the proposed rates and the total price.

11.3 If it is established that any Key Expert nominated in the Consultant's Proposal was not available at the time of Proposal submission or was included in the Proposal without confirmation, such Proposal shall be disqualified and rejected for further Analysis, and may be subject to sanctions in accordance with ITC 5.

### **a. Extension of Validity Period**



11.4 The Contracting entity will make its best effort to complete the selection **process** within the proposal's validity period. However, should the need arise, the Contracting entity may request, in writing, all Consultants who submitted Proposals prior to the submission deadline to extend the Proposals' validity.

11.5 If the Consultant agrees to extend the validity of its Proposal, it shall be done without any change in the original Proposal and with the confirmation of the availability of the Key Experts.

11.6 The Consultant has the right to refuse to extend the validity of its Proposal in which case such Proposal will not be further analyzed by the Contracting entity.

#### **b. Substitution of Key Experts at **Proposal Validity Extension****

11.7 If any of the Key Experts become unavailable/ready for the extended validity period, the Consultant shall provide a written adequate justification and evidence satisfactory to the Contracting entity together with the Key Expert substitution request. In such case, a substitute Key Expert shall have equal or better qualifications and experience than those of the originally proposed Key Expert. **The technical Analysis point, however, will remain to be based on the Analysis of the CV of the original Key Expert.**

11.8 If the Consultant fails to provide a substitute Key Expert with equal or better qualifications, or if the provided reasons for the replacement or justification are unacceptable to the Contracting entity, such Proposal will be rejected.

#### **c. Sub-Contracting (Sub-Consultants)**

11.9 The Consultant shall not subcontract the whole of the Services to sub-consultants.

11.10 The Consultant may subcontract part of the Services to Sub-consultants as may be approved in advance by the Contracting entity. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. If the Contracting entity did not accept the Sub-consultant, the proposal will not be rejected. However, the Consultant shall substitute the Sub-consultant with another one until a written approval of the Contracting entity is obtained. The maximum percentage of services that may be subcontracted is specified in the **Data Sheet**.

### **12. Clarification and Amendment of RFP**



12.1 The Consultant may request a clarification of any part of the RFP during the period indicated in the **Data Sheet** before the Proposals' submission deadline. Any request for clarification shall be sent in writing, or **by e-mail**, to the Contracting entity's address indicated in the **Data Sheet**. The Contracting entity will respond in writing to all, including the questions addressed to the Contracting entity without specifying their source. Should the Contracting entity deem it necessary to amend the RFP as a result of a clarification, it shall do so following the procedure described below:

12.1.1 At any time before the proposal submission deadline, the Contracting entity may amend the RFP by issuing an amendment in writing or **by e-mail**. The amendment shall be sent to all Consultants and will be binding on them. The Consultants shall acknowledge receipt of all amendments in writing.

12.1.2 If the amendment is substantial, the Contracting entity may extend the proposal submission deadline to give the Consultants reasonable time to take an amendment into account in their Proposals. Thereupon, the Contracting entity shall announce the amendment issued in the same manner in which the tender was announced.

12.2 The Consultant may submit a amended Proposal or a amendment to any part of it at any time prior to the proposal submission deadline. No amendments to the Technical or Financial Proposal shall be accepted after the deadline.

### **13. Preparation of Proposals**

While preparing the Proposal, the Consultant shall give particular attention to the following:

13.1 If a Consultant considers that it may enhance its expertise for the task by associating with other consultants in the form of a Joint Venture or as Sub-consultants, it may do so with either (a) out of short list Consultant(s), or (b) invited Consultants if permitted in the **Data Sheet**. In all such cases, a invited Consultant shall obtain the written approval of the Contracting entity prior to the submission of the Proposal. When associating with non-invited firms in the form of a joint venture or a sub-consultancy, the invited Consultant shall be a lead member. If invited Consultants associate with each other, any of them can be a lead member.



13.2 The Contracting entity may indicate in the **Data Sheet** the estimated Key Experts' time input (expressed in person-month). This estimate is indicative and the Proposal shall be based on the Consultant's own estimates for the same.

#### **14. Technical Proposal Format and Content**

14.1 The Technical Proposal shall not include any financial information. A Technical Proposal containing material financial information shall be declared non-responsive.

14.2 Consultant shall not propose alternative Key Experts. **Only one CV shall be submitted** for each Key Expert position. Failure to comply with this requirement will make the Proposal non-responsive.

14.3 Depending on the nature of the task, the Consultant is required to submit a Full Technical proposal (FTP) using the Standard Forms provided in Section 3 of the RFP according to the nature of the task.

#### **15. Financial Proposal**

15.1 The Financial Proposal shall be prepared using the Standard Forms provided in Section 4 of the RFP. It shall list all costs associated with the task, including (a) remuneration for Key Experts and Non-Key Experts, (b) reimbursable expenses indicated in the **Data Sheet**.

##### **a. Price Amendment**

15.2 For tasks with a duration exceeding what is stated in the **Data Sheet**, a price adjustment provision shall be adopted according to the GCC.

##### **b. Taxes**

15.3 **The amount of the proposal shall include all customs and taxes based on the contract unless otherwise stated in the Data Sheet and in accordance with the applicable legislation.**



### **c. Adopted Currency of Proposal**

15.4 The Consultant may express the price for its Services in the currency or currencies as stated in the Data Sheet. If indicated in the Data Sheet, the portion of the price representing local cost shall be stated in the national currency.

### **d. Adopted Currency of Payment**

15.5 Payment under the Contract shall be made in the local currency or currencies in which the payment is requested in the Proposal. These currencies shall be on the exchange rate table at the Central Bank of Iraq and have a rate of exchange against the Iraqi dinar.

## **Third – Proposal Submission, Opening, and Analysis**

### **16. Submission, Sealing, and Marking of Proposals**

The Consultant shall submit a signed and complete Proposal comprising the required documents and forms. The submission of the Proposal shall be done by hand. Proposals may be delivered by registered mail, provided that such means shall ensure delivery of Proposals within the specified periods.

16.1 An authorized representative of the Consultant shall sign the original submission letters in the required format for both the Technical proposal and, if applicable, the Financial Proposal and shall initial all pages of both. The authorization shall be in the form of a written power of attorney attached to the Technical proposal as stated in the Data Sheet. The name and position of each of the signatories shall be clearly stated with each signature. The Consultant shall ensure that the Proposal submission form is signed by the duly authorized representative, and that all pages of the price tables and attached documents are signed. All proposal pages where corrections or input made by Consultant shall also be signed (in full or initial). Prices shall be entered in numbers and letters as required in the price tables.

16.2 A Proposal submitted by a Joint Venture shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member's authorized representative.



16.3 The Proposal shall not include any amendments, revisions, interlineations, erasures, overwriting or amendments to the RFP items, except for correcting the mistakes made by the Consultant. In this case, such corrections shall be signed or initialed by the person or persons authorized to sign the Contract.

16.4 The signed Proposal shall be marked “ORIGINAL”, and its copies marked “COPY” as appropriate. The number of copies is indicated in the **Data Sheet**. If there are discrepancies between the original and the copies, the original shall prevail.

16.5 The original and all the copies of the Technical proposal shall be placed inside a sealed envelope clearly marked “**TECHNICAL proposal**”, “[Name of the Task]“, [reference number], [name and address of the Consultant], and with a warning “**do not open until [insert the date and the time of the technical proposal submission deadline stated in the data sheet. ]**”

16.6 Similarly, the original Financial Proposal (if required for the applicable selection method) and its copies shall be placed inside of a separate sealed envelope clearly marked “**FINANCIAL Proposal**” “[Name of the Task]“, [reference number], [name and address of the Consultant], and with a warning “**Do not open with the technical proposal.**”

16.7 The sealed envelopes **containing** the Technical and Financial proposals shall be placed into one outer envelope and sealed. This outer envelope shall be addressed to the Contracting entity and bear the submission address, RFP reference number, the name of the task, the Consultant’s name and the address, and **the name of the person authorized to sign on behalf of the consultant**. The envelope shall be clearly marked “Do Not Open Before **[insert the time and date of the submission deadline indicated in the Data Sheet]**”.

16.8 If the envelopes and packages with the Proposal are not sealed and marked as required, the Contracting entity will assume no responsibility for the misplacement, loss, or premature opening of the Proposal.

#### **a. Late Proposals**

16.9 The Proposal or its amendments shall be sent to the address indicated in the **Data Sheet** and received by the Contracting entity no later than the deadline indicated in the **Data Sheet**, or any extension to this deadline. Any Proposal or its amendment received by the Contracting entity after the deadline shall be declared late and rejected, and promptly returned unopened (as soon as possible). The Contracting entity shall issue a receipt for each Proposal closed, and shall keep a copy as a reference for any subsequent review.



## **b. Withdrawal, replacement or amendment of Proposals**

**16.10** The Consultant may withdraw, replace or amend its Proposal after submitting it to the Contracting entity by written notice from the Consultant's representative, which includes the authorization to act in accordance with Clause 16.1 of the ITC, and shall include the replacement of amendment of the Proposal.

**This written notice shall be prepared** and closed in accordance with Clauses 14, 15 and 16 of the ITC. In addition, "**withdrawal**", "**replacement**", or "**amendment**" shall be clearly written on the relevant envelopes to be submitted to the Contracting entity before Proposal submission deadline in accordance with Clause **16.9**

## **17. Confidentiality**

17.1 The consultant cannot contact the contracting authority to inquire about any matter related to the technical offer and / or financial offer, starting from the date of proposal opening until the date of award of the contract. Information regarding the proposal analysis and referral recommendations will not be disclosed to the proposalders consultants or any persons not formally involved in the process, until the date of the award of the contract.

17.2 Any attempt by any invited consultant, or any representative thereof, to improperly influence the contracting authority in the proposal analysis process or on the recommendations and decision to award the contract will lead to the refusal of his proposal.

17.3 Without exception from the above, and in the event the consultant wants to contact the contracting authority during the period starting from the date of proposal opening until the date of announcing the award of the contract, the consultant must only communicate in writing with the contracting authority for the purpose of completing the required technical data.

17.4 Information on the names and addresses of Consultants and their agents should not be disclosed to non-interested parties in order to maintain the confidentiality of the procedures during the Proposal announcement period.

## **18. Opening of Technical Proposal**

18.1 The Contracting entity shall conduct the opening of the Technical proposals in the presence of the Consultants' authorized representatives who choose to attend in person. The opening date, time and the address are stated in the **Data Sheet**. The envelopes with the Financial Proposal shall remain sealed and shall be securely stored with a reputable public auditor or independent entity until they are opened in accordance with ITC 22.





18.2 The envelopes marked “Withdrawal” shall be opened and read out first. The envelope containing the Proposal shall not be opened, but shall be returned to the Consultant. Any withdrawal of proposals shall not be permitted unless the withdrawal notice contains an valid authorization declared at the opening of the proposals.

Then the envelopes marked “Replacement” shall be opened and replaced with alternative proposals. The replaced proposals shall not be opened, but they shall be returned unopened to the Consultant. Proposals shall not be allowed to be replaced unless the replacement notice contains an valid authorization declared at the opening of the proposals.

Then, the Proposals marked “Amendment” shall be opened and read out. Proposals shall not be amended unless the notice of amendment includes an valid authorization declared when opening the envelopes. Envelopes that are opened and declared when opening of proposals will only be considered for any subsequent Analysis.

18.3 At the opening of the Technical Proposals the following shall be read out: (1) the name and the country of the Consultant or, in case of a Joint Venture, the name of the Joint Venture, the name of the lead member and the names and the countries of all members; (2) the presence or absence of a duly sealed envelope with the Financial Proposal; (3) the Consultant’s signature on the Proposal submission form and all the other attached forms; and (4) any other information deemed appropriate or as indicated in the Data Sheet. The contents and attachments of the Proposal shall be signed by the Proposal Opening Committee. The minutes shall be signed by the representatives of the Consultants who attended with their right to add any note on the work and performance of the committee. The failure of the Consultants to sign the minutes will not cancel the content or the validity of the minutes. A copy of the minutes shall be distributed to all consultants who submitted proposals within the specified time limit upon their request.

18.4 The Proposal Opening Minutes shall be displayed on the notice plate of the Contracting entity indicating that the Proposals will be subject to analysis and auditing.

18.5 Technical Proposals will be submitted through an official report to the Proposal Analysis Committee for following up analysis and audit as specified in Clause 19. Original proposals remain in the custody of the Contracting entity and in its position.



## 19. Opening of Financial Proposals

19.1 Upon completion of the technical analysis process, the Contracting entity shall inform the Consultants whose technical proposals were considered non-responsive, that they will be refunded to them after the completion of the selection procedures and the signing of the contract. At the same time, the Contracting entity shall inform the Consultants who have achieved or exceeded the required minimum technical level of the date and time and the address of the opening of financial proposals, taking into account the necessary time for the Consultants to complete the steps of attending the session. The presence of the consultant at the session of the Opening of Financial Proposal is optional.

19.2 Financial proposals shall be opened publicly by the Contracting entity's Proposal Opening Committee in the presence of the representatives of the consultants who wish and who have completed the minimum required technical level. During the opening of the proposals, the names of the consultants and the technical level of each Technical proposal shall be read out in accordance with each of the required criteria. After that, it is emphasized that the Financial proposals are still closed and sealed. Then the Financial proposals are opened and the gross amounts (prices) are read out and recorded publicly. A copy of the minutes shall be sent to all consultants who have submitted proposals.

## 20. Proposal Analysis

20.1 Subject to the provision of ITC 18.1, the evaluators (the Contracting entity's Technical Analysis committee) of the Technical proposals shall have no access to the Financial Proposals until the technical Analysis is concluded.

20.2 The Consultant is not permitted to alter or amend its Proposal in any way after the proposal submission deadline except as permitted under ITC 11.7. While analyzing the Proposals, the Analysis is solely conducted on the basis of the submitted Technical and Financial Proposals.

## 21. Analysis of Technical Proposal

21.1 The Contracting entity's Analysis committee shall analyze the Technical Proposals on the basis of their responsiveness to the Terms of Reference and the RFP, applying the Analysis criteria, sub-criteria, and point system specified in the **Data Sheet**. Each responsive Proposal will be given a technical point. A Proposal shall be rejected at this stage if it does not respond to important aspects of the RFP, especially TOR or if it fails to achieve the minimum technical point indicated in the **Data Sheet**.



## **21. Quality and Cost-Based anai**

### **a. Quality and Cost-Based Selection (QCBS)**

22.1 In the case of QCBS, the total point is calculated by weighting the technical and financial points and adding them as per the formula and instructions in the **Data Sheet**. The Consultant with the Most Advantageous Proposal, which is the Proposal that achieves the highest combined technical and financial points, will be invited for negotiations.

### **b. Fixed-Budget Selection (FBS)**

22.2 In the case of FBS, those Proposals that exceed the budget indicated in the **Data Sheet** shall be rejected. The Contracting entity will select the Consultant with the Most Advantageous Proposal, which is the highest-ranked Technical Proposal that does not exceed the budget indicated in the RFP, and invite such Consultant to negotiate the Contract.

### **c. Least-Cost Selection (LCS)**

22.3 In the case of Least-Cost Selection (LCS), the Contracting entity will select the Consultant with the Most Advantageous Proposal, which is the Proposal with the lowest analyzed total price among those Proposals that achieved the minimum qualifying technical point, and invite such a Consultant to negotiate the Contract.

## **23. Correction of Errors**

23.1 Tasks and items described in the Technical Proposal but not priced in the Financial Proposal, shall be assumed to be included in the prices of other tasks or items, and no corrections are made to the Financial Proposal.

**23.2** The Contracting entity's Technical Analysis Committee will (1) correct any computational or arithmetical errors, and (2) adjust the prices if they fail to reflect all inputs included for the respective tasks or items included in the Technical Proposal. In case of discrepancy between a partial amount (sub-total) and the total amount, or between the amount derived by multiplication of unit price with quantity and the total price, or between words and figures, the former will prevail. In case of discrepancy between the Technical and Financial Proposals in indicating quantities of input, the Technical Proposal prevails and the Contracting entity's Technical Analysis Committee shall correct the quantification indicated in the Financial Proposal so as to



make it consistent with what is indicated in the Technical Proposal, apply the relevant unit price included in the Financial Proposal to the corrected quantity, and correct the total Proposal cost.

## **24. Taxes**

24.1 The Contracting entity's Analysis of the Consultant's Financial Proposal shall exclude taxes and duties in Iraq in accordance with the instructions in the **Data Sheet**.

## **25. Adoption of single currency upon analysis**

25.1 For the Analysis purposes, the Iraqi Dinar shall be used and the prices of proposals shall be converted to a single currency using the selling rates of exchange, and source and date indicated in the **Data Sheet**, and adopting the exchange rate of the Central Bank of Iraq.

# **Fourth – Negotiations and contract awarding**

## **26. Negotiations**

26.1 Negotiations shall take place on the date and address specified in the **data sheet** with the consultant representative, who must submit a letter of authorization in force for negotiation and signing of the contract on behalf of the consultant and in accordance with the applicable Iraqi laws.

26.2 The Contracting entity shall prepare minutes of negotiations that are signed by the Contracting entity and the Consultant's authorized representative.

### **a. Availability of Key Experts**

26.3 The invited Consultant shall confirm the availability of all Key Experts included in the Proposal as a pre-requisite to the negotiations, or, if applicable, a replacement in accordance with ITC 11. . The failure of the consultant to confirm the availability (readiness) of experts will lead to rejection of the tender and move to the next second consultant in the arrangement from the list of qualified consultants to negotiate.



26.4 Notwithstanding the above, the substitution of Key Experts at the negotiations may be considered if due solely to circumstances outside the reasonable control of and not foreseeable by the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall offer a substitute Key Expert within the period of time specified in the Letter of Invitation to negotiate the Contract, who shall have equivalent or better qualifications and experience than the original expert.

### **b. Technical Negotiations**

26.5 The negotiations include discussions of the Terms of Reference, the proposed methodology, the Contracting entity's inputs, the special conditions of the Contract, and finalizing the "Description of Services" part of the Contract. These discussions shall not substantially alter the original scope of services under the TOR or the terms of the contract, lest the quality of the final product, its price, or the relevance of the initial Analysis be affected.

### **c. Financial Negotiations**

26.6 The negotiations include the clarification of the Consultant's tax liability in Iraq (according to the applicable regulations) and how it shall be reflected in the Contract.

26.7 If the selection method included cost as a factor in the Analysis, the total price stated in the Financial Proposal for a Lump-Sum contract shall not be negotiated.

## **27. Termination of Negotiations**

27.1 The negotiations shall be terminated with a review of the finalized draft Contract, which then shall be initialed by the Contracting entity and the Consultant's authorized representative.

27.2 If the negotiations fail, the Contracting entity shall inform the Consultant in writing of all pending issues and disagreements and provide a final opportunity to the Consultant to respond. If disagreement persists, the Contracting entity shall terminate the negotiations informing the Consultant of the reasons for doing so. Accordingly, the Contracting entity will invite the next ranked Consultant to negotiate a Contract. Once the Contracting entity commences negotiations with the next-ranked Consultant, the Contracting entity shall not reopen the earlier negotiations.



## 28. Award of Contract

28.1 After negotiations are completed, the Contracting entity shall sign the Contract and publish the Contract Award information in accordance with the applicable Iraqi laws. The Contracting entity will also promptly notify other consultants on the shortlist. Notification of award shall be done during the post-signing period of the Contract as specified in the Data Sheet.

28.2 Before the award of Contract, the Contracting entity and the relevant authorities shall ensure that the standard forms submitted in the Proposal are valid.

28.3 The selected Consultant is expected to commence the task on the date and at the site specified in the Data Sheet.

## 29. Complaints and appeals

29.1 Any of the excluded Consultants shall be entitled to appeal the awarding decision by submitting a written complaint within seven (7) working days from the date of the notification to the Contracting entity's Committee on Objections, which shall exercise its functions in accordance with the instructions of executing the governmental contracts.

## 30. Signing of Contract

30.1 Promptly after notification, the Contracting entity shall send the successful Consultant the Contract, incorporating the contract agreement and the SCC. The Contract shall be written in the language specified in the **Data Sheet**. The Contracting entity will also return proposals closed to the excluded consultants.

30.2 Within 14 working days of receipt of the contract agreement (or twenty-nine (29) days in the case specified in ITC 30.1 including (the Notice Period) or after the expiry of the appeal period, the successful Consultant sign and date the contract and return it to the Employer. In the event of an appeal of the excluded consultants, in accordance with ITC 2.30, the Employer will have the right to proceed with the execution of the Contract with the Successful Consultant on the grounds that the Contract fully meets the requirements and that delaying the execution of the Contract does not serve the public interest, and that the cancellation of the Contract will cause serious damage to the public interest.



The Contract shall be certified as specified in Clause 30.1 of the Data Sheet.

### **31. Good Performance Guarantee**

31.1. The successful Consultant shall submit, within (14) days of receipt of the "Award Letter", a good performance guarantee according at the value specified in Proposal Data Sheet and in a letter of guarantee. This guarantee shall be valid after the end of the maintenance period, and the issuance of the Final receipt and settlement of final accounts.

31.2 The Good Performance Guarantee shall be issued by an accredited bank in Iraq.

31.3 If the successful Consultant fails to comply with the requirements of 31.1, this may result in the cancellation of the award of the contract and the forfeiture of the proposal security



## Section II – Instructions to Consultants

### Data Sheet

<b>ITC Reference</b>	
1.2	Name of contracting entity: <i>[insert Name of the Contracting entity]</i> Method of selection: <i>[insert Method of Selection]</i>
2.2	Financial Proposal to be submitted together with Technical Proposal: <i>Yes/No</i> Name of the consultancy task: <i>[insert name of the consultancy task]</i>
2.3	A pre-proposal conference will be held: <i>[Yes/No]</i> <u>{ If yes, type the date, time, and site as follows: }</u> Date of Conference: <i>[insert day, month and year]</i> Time: <i>[insert the hour and minute]</i> Address: <i>[insert address]</i> Phone: <i>[insert the phone number]</i> Fax: <i>[insert the fax number]</i> Email: <i>[insert e-mail]</i> Contracting entity's representative/ conference coordinator: <i>[insert name]</i> }
2.4	The Employer shall provide the following data and facilities: <i>[Yes or No]</i> <i>[If yes, type the data and facilities]</i>
<b>Second - Preparation of Proposals</b>	
8.1	This RFP has been issued in Language: <i>[insert Language]</i> Proposals shall be submitted in: <i>[Arabic, Kurdish, English]</i> All correspondence exchange shall be in: <i>[insert language]</i>
9.1	The Proposal shall comprise the following: The first Inner Envelope of the Technical Proposal:





<b>ITC Reference</b>	
	<p>-The Legal authorization to sign the contract, provided that it does not date more than three months or A firm's registration certificate</p> <p>-Technical Form- 1</p> <p>-Technical Form- 2</p> <p>-Technical Form- 3</p> <p>-Technical Form- 4</p> <p>-Technical Form- 5</p> <p>-Technical Form- 6</p> <p>-Technical Form- 7</p> <p>The second Inner Envelope of the Financial Proposal includes:</p> <p>-Financial Form- 1</p> <p>-Financial Form- 2</p> <p>-Financial Form- 3</p> <p>-Financial Form- 4</p>
10.1	Participation of Sub-consultants and Non-Key Experts in more than one Proposal is permissible: <i>[Yes/No]</i>
11.1	Proposals shall remain valid for <i>[insert the period]</i> days after the proposal submission deadline (i.e. until <i>[insert date]</i> ) <u>{This period shall be realistic to allow the Employer to analyze proposals according to the complexity of the task and the time needed to obtain references, clarifications, ratifications, and approvals and to notify the award of the Contract. }</u>
11.10	The maximum percentage of sub-contracting is: <i>[insert percentage]</i> <u>{The percentage is determined according to the nature of the Contract and should not exceed 30% }.</u>
12.1	Clarifications may be requested no later than <i>[insert the number of days (as a guidance (14))]</i> days before the proposal submission deadline. Requests for clarifications are submitted by hand or by registered mail <i>[insert "can" or "can not"]</i> be sent by cable.



<b>ITC Reference</b>	
	Clarifications shall be sent to: Title:[ <i>insert the full and detailed address of the Employer</i> ] Responsible Officer: [ <i>insert responsible officer name</i> ] Fax: [ <i>insert fax number</i> ] E-mail: [ <i>insert e-mail</i> ]
13.1	The Consultants on the shortlist can partner with a. Consultants outside the shortlist [ <i>Yes or No</i> ] or b. Other consultants on the shortlist [ <i>Yes or No</i> ]
13.2	The time required to be provided by the Key Experts for the consultancy task at the Employer's discretion is [ <i>insert number</i> ] ( <i>person / month</i> )
15.1	<u>{A sample list is provided below for guidance. Items that are not applicable shall be deleted, others may be added. If the Employer wants to set up maximum ceilings for unit rates of certain type of expenses, such ceilings shall be indicated in the financial forms:}</u> 1- a per diem allowance, including hotel, for experts for every day of absence from the home office for the purposes of the Services; 2- cost of travel and local transportation by the most appropriate means of transport and the most direct practicable route; 3- the cost of office rental, general administrative expenses and general office expenses; 4- Cost of international or domestic notices; 5- Cost of purchase or rent or freight of any equipment required to be provided by the Consultants; 6- Cost of reports production and delivering to the Employer; 7- [ <i>insert other relevant type of expenses, if/as applicable</i> ]
15.2	Duration is: [ <i>It is appropriate to be not less than 18 months</i> ] <u>{The possibility of adjusting prices for fee allowances is subject to the applicable laws and regulations}</u> <b>not applicable</b>
15.3	Government debt is collected in accordance with the Iraqi Debt Collection Act No. 56 of 1977. Tax exemptions for consultants are:



<p><b>ITC Reference</b></p>	
	<p>Foreign Consultants are (exempted /not exempted) from income tax, Iraq reconstruction tax and other approved taxes if the Contract is for development projects and is only on the list of development programs.  <i>[insert a description of any tax exemptions and their source]</i></p>
<p>15.4</p>	<p>The Financial proposal shall be stated in the following currencies:          Consultant may express the price for their Services in any fully convertible currency, singly or in combination of up to three foreign currencies. provided that these currencies are in the table of exchange rates with the Central Bank of Iraq and has a rate of exchange against the Iraqi dinar.</p> <p>[The local currency (Iraqi dinar) is used in the Financial Offer when pricing expenditures and local costs [yes <input type="checkbox"/> or no <input type="checkbox"/></p>
<p align="center"><b>Third - Submission, Opening and Analysis of Proposals</b></p>	
<p>16.1</p>	<p>The written authorization of the Consultant's representative to sign on behalf of the Consultant shall include the legal authorization of signing issued before no more than three months by the Consultant (or the JV) or a Certificate of Incorporation refers to the Authorized Powers.  <i>[All proposal pages shall be signed]</i></p>
<p>16.4</p>	<p>The Consultant shall submit:          (a) Technical Proposal: 1 original, <i>[insert number]</i> copy(ies)          (b) Financial Proposal: 1 original.</p>
<p>16.9</p>	<p>The Proposals shall be submitted no later than:          Date: <i>[insert day / month / year]</i>          Time: <i>[insert local time]</i></p> <p><u>{The Proposal submission date shall be from 10 to 60 days after the date of announcement, depending on the complexity of the task, the quality of the proposals expected from the consultants and the Employer's discretion}</u></p>



ITC Reference	
	<p><b>Proposal Submission Address:</b></p> <p>Attn: <i>[insert name and position of the employee responsible for the receipt]</i></p> <p>Street: <i>[insert the name and address of the Employer in detail]</i></p> <p>Building: <i>[insert the name and number of the building]</i> Floor: <i>[insert floor number]</i></p> <p>City: <i>[insert city name]</i></p> <p>Country: <i>[insert country name]</i></p> <p>Phone: <i>[insert phone number]</i></p>
18.1	<p><b>The opening shall take place at:</b></p> <p><i>[Insert: “same as the Proposal submission address” OR insert any other details: building number, floor number, room number]</i></p> <p>Date: <i>[insert day/month/year]</i></p> <p><u>{Proposal Opening date shall be the same as the submission deadline or shall be immediately after it to reduce the complaints regarding the Proposal storage arrangements. In some exceptional cases where Proposals cannot be opened at the same time of the submission deadline, the date of Proposal opening may be defined, pursuant to the Employer's approval, on the next working day, according to the applicable Iraqi laws}</u></p> <p>Date: <i>[insert date]</i></p>
18.3	<p>In addition, the following information will be read aloud at the opening of the Proposals:</p> <p><i>[insert “N/A” or state what additional information will be read out and recorded in the opening minutes].</i></p>
21.1	<p>Criteria, sub-criteria, and point system for the Analysis of the Full Technical Proposals:</p> <p>(a) Specific experience of the Consultant relevant to the Task: [00 – 10]</p> <p>(b) Adequacy and quality of the proposed methodology, and work plan in responding to the Terms of Reference: [20 - 50]</p> <p>(c) Key Experts’ qualifications and competence for the Task:</p> <ul style="list-style-type: none"> <li>▪ First position: [Consultant Team Leader] [insert points]</li> </ul>



ITC Reference	
	<ul style="list-style-type: none"> <li>▪ Second position: <i>[insert position]</i> <span style="float: right;"><i>[insert points]</i></span></li> <li>▪ Third position: <i>[ insert position]</i> <span style="float: right;"><i>[insert points]</i></span></li> </ul> <p><b>Total points for criterion (c):</b> <span style="float: right;"><b>[30 - 60]</b></span></p> <p>The number of points to be assigned to each of the above positions or disciplines shall be determined considering the following sub-criteria and relevant percentage weights:</p> <ol style="list-style-type: none"> <li>1) General qualifications (education, training, experience) <span style="float: right;">[10 - 30%]</span></li> <li>2) Adequacy for the task (education, training, experience in similar tasks) <span style="float: right;">[60 - 80%]</span></li> <li>3) {if suitable: Experience in in region, language, culture, and administration system <span style="float: right;">[00 - 10%]}</span></li> </ol> <p>Total points: 100%</p> <p>(d) Suitability of the transfer of knowledge program: (Training: approach and methodology <span style="float: right;">[00 – 10]</span> <u>{Often not to exceed 10 points}</u></p> <p>(e) Participation by local Consultants among Key experts <span style="float: right;">[0 – 10]</span> <u>{ not to exceed 10 points: Calculated as a ratio of the local Key Experts' time-input to the total number of Key Experts' time-input in the Consultant's Technical Proposal}</u></p> <p>Total points of the five criteria: [100]</p> <p>The minimum technical point required to pass is: <i>[insert number]</i> points</p>
23.1	<p>For the purpose of the Analysis, the Employer will exclude the following taxes:</p> <p>Tax: <i>[describe the tax]</i></p> <p>Tax: <i>[describe the tax]</i></p>
24.1	<p>The single currency for the conversion of all prices expressed in various currencies into a single one is: <i>[indicate local currency or fully convertible foreign currency]</i></p> <p>The official source of the selling (exchange) rate is <i>[the Central Bank of Iraq or another source]</i></p> <p>The date of the exchange rate is: <i>[insert day/month/year]</i></p>



ITC Reference	
25.1	<p>The formula for determining the financial points (Sf) of all other Proposals is calculated as following:</p> <p style="text-align: center;"><math>Sf = 100 \times Fm / F</math>, in which “Sf” is the financial point, “Fm” is the lowest price, and “F” the price of the proposal under consideration.</p> <p>The weights given to the Technical and Financial Proposals are:</p> <p>Technical Proposal: [Insert weight: (60 – 80%)], and</p> <p>Financial proposal: [Insert weight:(20 – 40%)]</p> <p>Be sure that Technical Proposal (T) + Financial Proposal (P) = 1</p> <p>Proposals are ranked according to their combined technical (St) and financial (Sf) points using the weights (T = the weight given to the Technical Proposal; P = the weight given to the Financial Proposal; T + P = 1) as following: <math>S = St \times T\% + Sf \times P\%</math>.</p>
25.2	The price of the task is: [insert price]
<b>Four: Negotiations and Award</b>	
26.1	<p>Expected date and address for contract negotiations:</p> <p>Date: [insert day/month/year]</p> <p>Address:</p> <p>Street: [insert the name and address of the Employer in detail]</p> <p>Building: [insert the name and number of the building] Floor: [insert floor number]</p> <p>Room: [insert room number]</p> <p>City: [insert city name]</p> <p>Country: [insert country name]</p>
28.1	The publication will be done within [insert number of] days after the contract signing.
28.3	<p>Expected date for the commencement of the Services:</p> <p>Date: [Insert day/month/year]</p> <p>Address: [Insert the site of the task]</p>
30.1	<p>The contract is written in: [insert the language (Arabic, Kurdish or English)].</p> <p>The contract is certified in accordance with the Notary Law.</p>



<b>ITC Reference</b>	
31.1	The percentage of good performance guarantee is <i>[insert percentage of Contract amount]</i>



## **Section III. Technical Proposal Standard Forms**

(To be filled out by the Consultant)





## Technical form- 1 TECHNICAL PROPOSAL SUBMISSION FORM

Tender name: [insert tender name]

RFP No.: [insert number]

To: [Name and address of contracting entity]

We, the undersigned, offer to provide consulting services for a task [insert job title] according to your request for proposals on the date [insert date] and according to our proposal. [Enter the selection method]: We present to you our proposal which includes the technical proposal and the financial offer in two sealed and separate envelopes,

Or (if a financial offer is not required): We offer you our bid, which contains this technical offer only in a sealed envelope.

(If the proposal is submitted by a joint venture of consultants): We present this proposal in conjunction with] Enter a list with the full name and legal address of each of the joint consultants and specify the name of the responsible partner], and we have attached to this form a copy of the **partnership contract** signed by all the consultants who make up the JV with details on the expected legal structure and affirming this partnership Jointly and severally.

(If the proposal is submitted in partnership with Subconsultants): We present this offer in conjunction with] Enter a list with the full name and address of each of the Subconsultants)

We hereby declare that:

- a- We have read the texts of the RFP Document and all its appendixes and amendments as per ITC 12, and we have no reservations regarding them.
- b- All the information and statements made in this Proposal are true and we accept that any misinterpretation or misrepresentation contained in this Proposal may lead to our disqualification by the Employer.
- c- Our Proposal shall be valid for ----- days from the Proposal submission deadline specified in RFP document, and remain binding upon us and accepted by us until the end of its validity duration.
- d- We, along with the Sub-consultants working with us, meet the eligibility requirements as stated in ITC 6.
- e- We have no conflict of interest in accordance with ITC 3.



f- We submit one proposal in our capacity as individual Consultants or members of a Joint Venture in accordance with ITC 2.6, except what is stated in the Instructions to consultants, Clause 10.

g- Except as stated in the **Data Sheet**, Clause 11, we undertake to negotiate a Contract on the basis of the proposed Key Experts. We accept that the substitution of Key Experts for reasons other than those stated in ITC 11 and 26.4 may lead to our exclusion from selection.

h- Our Proposal is binding upon us and subject to any amendments resulting from the Contract negotiations.

i- We confirm that our website is \_\_\_\_\_ and our office address is \_\_\_\_\_ and that Mr. /Mrs. \_\_\_\_\_ whose position is \_\_\_\_\_ and e-mail address is \_\_\_\_\_ will follow up all the issues and clarifications regarding the Proposal.

We undertake, if our Proposal is accepted and the Contract is signed, to initiate the Services related to the task no later than the date indicated in Clause 28.3 of the **Data Sheet**.

We understand that the Employer is not bound to accept any Proposal that the Employer receives.

Yours sincerely,

Authorized Signature [*In full and initials*]:

Name and Title of Signatory:

Name of Consultant:

Address:

Phone:

E-mail:

*{For a joint venture, either all members shall sign or only the lead member, in which case the power of attorney to sign on behalf of all members shall be attached.}*



## TECHNICAL FORM-2 CONSULTANT’S ORGANIZATION AND EXPERIENCE

### A - Consultant’s Organization

1-Provide here a brief description of the background and organization of the Consultant, and – in case of a joint venture – of each member for this task.

2-Include the Consultant’s organizational chart containing a list of Board of Directors.

### B – Consultant’s Experience

1-List only previous similar tasks successfully completed in the last [Insert number] years.

2-List only those tasks for which the Consultant was legally contracted by the Employer as a company or was one of the joint venture partners.

Tasks completed by the Consultant’s individual experts working privately or through other consulting firms cannot be claimed as the relevant experience of the Consultant, but can be claimed by the Experts themselves in their CVs.

The similar tasks stated in this form shall be supported by the concerned authorities.

Duration	Task name/brief description of outputs	Name of Employer & Country of Task	Approx. Contract value)/ Amount paid to your firm	Consultant's role on the Task
{e.g., Jan.2009– Apr.2010}	{e.g, Improvement quality of..... }	{e.g, Ministry of.. }	{ e.g, 2mill ID/600 thousand ID }	{e.g, Lead partner in a JV }



**TECHNICAL FORM- 3 COMMENTS AND SUGGESTIONS ON THE TERMS OF REFERENCE, COUNTERPART STAFF, AND FACILITIES TO BE PROVIDED BY THE EMPLOYER**

**A - On the Terms of Reference**

[Improvements to the Terms of Reference, if any]

**B - On Counterpart Staff and Facilities**

[Include comments on counterpart staff and facilities to be provided by the Employer. For example, administrative support, office space, local transportation, equipment, data, reports, etc., if any]



## **TECHNICAL FORM- 4 DESCRIPTION OF APPROACH, METHODOLOGY, AND WORK PLAN**

A description of the approach, methodology and work plan for performing the task, including a detailed description of the proposed methodology and staffing for training, if the Terms of Reference specify training as a specific component of the task.

- a) **Technical Approach and Methodology.** The Consultant shall explain its understanding of the objectives of the task, the technical approach, and the methodology the Consultant adopts for implementing the tasks to deliver the expected output(s), and the degree of detail of such output.
  
- b) **Work Plan.** The Consultant shall outline the plan for the implementation of the main tasks/tasks of the task, their content and duration, phasing and interrelations, milestones (including interim approvals by the Employer), and tentative delivery dates of the reports. The proposed work plan shall be consistent with the technical approach and methodology, showing the Consultant's understanding of the TOR and ability to translate them into a feasible working plan. A list of final output(s) shall be included here.
  
- c) **Organization and Staffing.** The Consultant shall describe the structure and composition of the team, including the list of the Key Experts, Non-Key Experts and relevant technical and administrative Assistance staff.

## TECHNICAL FORM -5 WORK SCHEDULE AND PLANNING FOR DELIVERABLES

N°	Deliverables	Months													
		1	2	3	4	5	6	7	8	9	10	11	...	TOTAL	
M1	Data collection														
M2	Report drafting														
M3	Inception report														
M4	Incorporating comments														
M5	.....														

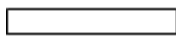
**The Analysis Committees shall review all other tables, forms, working methodology and related time schedule during the audit of the data listed in the table above.**

### TECHNICAL FORM- 6 TEAM COMPOSITION, TASK, AND KEY EXPERTS' INPUTS

N	Name of Expert	Expert's input (in person/month) per each Deliverable (listed in TECH-5)												Total time-input (in Months)			
			M-1		M-2		M-3		.....		M...		n	Home	Field	Total	
<b>Key Experts</b>																	
1		[Home]	[2 month]		[1.0]		[1.0]										
		[Field]	[0.5 m]		[2.5]		[0]										
2...																	
												Subtotal					
<b>Non-Key Experts</b>																	
1		[Home]															
		[Field]															
2...																	
												Subtotal					
												Total					

The Analysis Committees shall review all other tables, forms, working methodology and related time schedule during the audit of the data listed in the table above.

- For Key Experts, the input shall be indicated individually for the same positions as required under the Data Sheet ITC21.1.
- Months are counted from the start of the task. One (1) month equals twenty two (22) working days. One working day shall be not less than eight (8) working hours.
- “Home” means work in the office in the Consultant's country of residence. “Field” work means work carried out in the Employer’s country or any other country outside the Consultant's country of residence.

 Full time input     
  Part time input



### TECHNICAL FORM-7 CURRICULUM VITAE (CV)

<b>Position Title</b>	[define position and reference]
<b>Name of Expert:</b>	[Insert full name]
<b>Date of Birth:</b>	[day/month/year]
<b>Citizenship</b>	[citizenship of expert]

**Education:** [date of graduation / name of college / level of education / licenses or international certificates if any]

**Employment record relevant to the task:** [Period of employment / Employer / country / position / functions ...]

Period	Employer/position/contact information for references	Country	Summary of tasks
[e.g, May 2005-present]	[e.g., Ministry of ..... /advisor/consultant to...] For references: Tel...../e-mail.....; Mr. ...., deputy minister]		

Membership in Professional Associations:

International licenses:

Language [insert language mastery level]:

Adequacy for the Task:

Detailed Tasks Assigned on Consultant’s Team of Experts:	Similar work that matches the required tasks
{List all deliverables/tasks as in TECH- 5 in which the Expert will be involved}	Project name: Year: Country: Employer: Title: Executed activities:

Expert Title: [insert Expert Title]

Phone: [insert Phone] Email: [insert Email]





Undertaking.

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience, and I am available to undertake the task in case of an award. I understand that any misstatement or misrepresentation described herein may lead to my disqualification or dismissal.

Date: [day/month/year]

---

[Name of Expert]

[Signature of Expert]

Date: [day/month/year]

---

Name of Representative who signs the Proposal]

Representative authorized Signature]



## **Section IV. Financial Proposal**

### **Proposal - Standard Forms**



## Financial form-1 FINANCIAL PROPOSAL SUBMISSION FORM

Proposal name: [insert tender name]

Proposal No.: [insert number]

To: [Name and address of Employer]

We, the undersigned, offer to provide the consulting services for [Insert title of task] in accordance with your Request for Proposals dated [Insert Date] and our Proposal.

Our attached Financial proposal is for the amount of [Indicate the corresponding to the amount(s) in words and figures along with currency (ies)], [Insert “including” or “excluding”] of all indirect local taxes in accordance with Clause 23.1 in the Data **Sheet**. The estimated amount of local indirect taxes is [Insert currency] [Insert amount in words and figures] which shall be confirmed or adjusted, if needed, during negotiations. {All amounts shall be the same as in Form FIN-2}.

Our Financial proposal shall be binding upon us subject to the amendments resulting from Contract negotiations, up to expiration of the validity period of the Proposal indicated in the Data **Sheet**.

We understand you are not bound to accept any Proposal you receive.

Best regards,

Authorized Signature {In full and initials}:

Name and Title of Signatory:

Name of Consultant:

Address:



Republic of Iraq

E-mail:

(For a joint venture, either all members shall sign *or* only the lead member/consultant, in which case the power of attorney to sign on behalf of all members shall be attached.)

## Financial form-2 Summary of Costs

The Analysis Committees shall review all other tables, forms, working methodology and related time schedule during the audit of the data listed in the table above

Item	Cost			
	Costs in accordance with ITC 15, 16 (Delete columns which are not used.)			
	Foreign Currency # 1	Foreign Currency # 2, (if used)	Foreign Currency # 3, (if used)	Local Currency, (if used and/or required (16.4 Data <b>Sheet</b> )
<b>Price according to Financial proposal</b>				
Remuneration, Key Experts (in words and figures)				
Reimbursable Expenses (in words and figures)				
<b>Total Cost of the Financial proposal (in words and figures)</b> [Should match the amount in Form FIN-1].				
<b>Indirect Local Tax Estimates [To be discussed and finalized at the negotiations if the Contract is awarded.]</b>				
a. {insert type of tax: e.g., VAT or sales tax}				
b. {e.g., income tax on non-resident experts}				
c. {insert type of tax}				
<b>Total Estimate for Indirect Local Tax (in words and figures)</b>				

## Financial form-4 Breakdown of Remuneration<sup>1</sup>/ Experts

(This Form Fin-4 shall only be used to include a time-based Contract form in the RFP)

<b>Tasks Group (Phase):</b>				
Name <sup>2</sup>	Position <sup>3</sup>	Person-month Remuneration Rate <sup>4</sup>	Time Input in Person/Month <sup>5</sup>	[Local Currency] <sup>6</sup>
<b>International Key Experts</b>				
		[Home]		
		[Field]		
<b>National Key Experts</b>				
		[Home]		
		[Field]		
<b>Total Remuneration</b>				

- 1 Form FIN-4 shall be filled for each of the Forms FIN-3 provided.
- 2 Professional Staff shall be indicated individually; Assistance Staff shall be indicated per category (e.g.: draftsmen, clerical staff).
- 3 Positions of Professional Staff shall coincide with the ones indicated in Form TECH-5.
- 4 Indicate separately staff-month rate for home and field work.
- 5 Indicate, separately for home and field work, the total expected input of staff for carrying out the group of tasks or phase indicated in the Form.
- 6 Remuneration = Staff-month Rate x Input.



### Financial form-4 Breakdown of Remuneration<sup>1</sup> for the Proposed Staff

(This Form FIN-4 shall only be used when the **Lump-Sum Form of Contract** has been included in the RFP. Information to be provided in this Form shall only be used to establish payments to the Consultant for possible additional services requested by the **Employer**)

Name <sup>2</sup>	Position <sup>3</sup>	Staff-month Rate <sup>4</sup>
<b>Foreign Staff</b>		
		[Home]
		[Field]
<b>Local Staff</b>		
		[Home]
		[Field]

<sup>1</sup> Form FIN-4 shall be filled in for the same Professional and Assistance Staff listed in Form TECH-7.  
<sup>2</sup> Professional Staff shall be indicated individually; Assistance Staff shall be indicated per category (e.g.: draftsmen, clerical staff).  
<sup>3</sup> Positions of the Professional Staff shall coincide with the ones indicated in Form TECH-5.  
<sup>4</sup> Indicate separately staff-month rate for home and field work.

**FINANCIAL FORM-5 Breakdown of Reimbursable Expenses<sup>1</sup>**

(This Form FIN-5 shall only be used when the Time-Based Form of Contract has been included in the RFP)

N°	Description <sup>2</sup>	Unit	Unit Cost <sup>3</sup>	Quantity	[Indicate Local Currency] <sup>4</sup>
	Per diem allowances	Day			
	Miscellaneous travel expenses	Trip			
	Notice costs between [Insert place] and [Insert place]				
	Drafting, reproduction of reports				
	Equipment, instruments, materials, supplies, etc.				
	Shipment of personal effects	Trip			
	Use of computers, software				
	Laboratory tests.				
	Local transportation costs				
	Office rent, clerical assistance				
	Training of the <b>Employer's personnel</b> <sup>5</sup>				
Total Costs:					

<sup>1</sup> Form FIN-5 shall be filled for each of the Forms FIN-3 provided, if needed.

<sup>2</sup> Delete items that are not applicable or add other items according to Clause 17.1 of the Data Sheet.

<sup>3</sup> Indicate unit cost

<sup>4</sup> Cost = Unit Cost x Quantity

<sup>5</sup> Only if the training is a major component of the task, defined as such in the TOR.





## Financial Form 5 - Details of returned expenditures

(This financial form-5 is used only when the request for proposals includes a total contract form. The information mentioned in this form is used to determine the payments due to the consultant for possible additional services that **the employer may require**).

No.	Description <sup>1</sup>	Unit	Unit cost <sup>2</sup>
	Daily travel expenses	Day	
	Various travel expenses	Trip	
	Contact cost between (insert place) and (insert place)		
	Writing draft reports and reproducing them		
	Equipment, machinery, materials, imports, etc.		
	Personal cargo luggage	Trip	
	Computer use, and software		
	Lab tests		
	cost of local transportation		
	Office rent, office work		
	Employer personnel training <sup>3</sup>		

<sup>1</sup> Clear the items that do not apply or add other items under paragraph 6.3 in the data sheet.

<sup>2</sup> Indicate the unit cost.

<sup>3</sup> Only when training is one of the main components of the task, and also defined in the Terms of Reference



## Section V - Terms of Reference

{The required information below shall be filled out by the contracting entity:

**First: Detailed definition (background and history) of the project and task**

**Second: Objective(s) of the project and task.**

**Third: Scope of Services, expected components, tasks and outputs**

- A. [indicate services in detail including tasks and outputs required for this task]
- B. [indicate if downstream work is required]
- C. [indicate if training is a specific component of the task]

**Fourth: Structure of the teamwork and qualifications of key experts.**

**Fifth: Required reports and schedule for the delivery of these reports and outputs**

{The following shall be determined as minimum:

- A... format, frequency, and contents of reports;
- B... number of copies, and requirements to electronic submission (or on CD ROM). Final reports shall be delivered in CD ROM in addition to the specified number of hard copies;
- C... dates of submission;
- D... persons (indicate names, titles, submission address) to receive them; etc.

If no reports are to be submitted, state here “Not applicable.”

### 6. Employer’s Input and Counterpart Personnel

(a) Services, facilities and property to be made available to the Consultant by the Employer:

[\_\_\_\_\_]

(b) Professional and Assistance counterpart personnel to be assigned by the Employer to the

Consultant’s team: [\_\_\_\_\_]



Republic of Iraq

(The price of any facilities, equipment, services or vehicles owned by the Employer and used by the Consultant shall be deducted from the price of the Contract)



# PART TWO - CONDITIONS OF CONTRACT AND CONTACT FORMS



## Section VI - SCC, GCC, Contact forms

The GCC in this section shall be read in conjunction with the SCC in Section VII as well as the other forms set out in the Contract agreement. These documents shall constitute an integral document specifying all the rights and duties of the parties to the contract.

The GCC shall be maintained without any change or amendment. Any amendment, extension, cancellation or addition to each contract shall be included in Section VII (Special Conditions of Contract SCC) by the contracting entity only.



# Republic of Iraq

## Standard Form of Consultancy Services Contracts

### Time-Based Contract

Project Name: [ ]

**Project** Reference: [ ]

Between

[Contracting entity]

And

[Consultant]

Date: [Insert date]



## General Conditions of Contract

1	Definitions.....	68
2	Relationship between the Parties.....	69
3	Contract Governing Law.....	70
4	Language.....	70
5	Addresses.....	70
6	Notices.....	70
7	Site.....	70
8	Authority of partner in Charge.....	70
9	Authorized Representatives.....	70
10	Corrupt and Fraudulent Practices.....	71
11	Contract Validity.....	72
12	Termination of Contract for invalidity.....	72
13	Commencement of Services.....	72
14	Contract Termination Date.....	72
15	Entire Agreement.....	72
16	Amendments.....	72
17	Force Majeure.....	73
18	Work Suspension.....	74
19	Suspension of execution/ Work Withdrawal/ Contract termination.....	75
20	General.....	78
21	Conflict of Interests.....	79
22	Confidentiality.....	80
23	Liability of the consultant.....	80
24	Consultant's insurance.....	80
25	Accounting, Inspection and Auditing.....	80
26	Repts submission.....	81
27	Employer's copyrights.....	81
28	Equipment, Vehicles and Materials.....	81
29	Description of Key Experts.....	81
30	Replacement of Key Experts.....	82



31	Approval to increase key experts.....	82
32	Deportation of key experts and sub-consultants.....	82
33	Replacement/ Deportation of Experts – Impact on Payments.....	83
34	Working Hours, Overtime, Leave, etc.....	83
35	Assistance and Exemptions.....	83
36	Access to Project Site.....	84
37	Change in the Applicable Law Related to Taxes and Duties.....	84
38	Services, Facilities and Property of the Employer.....	85
39	Counterpart Personnel.....	85
40	Payments.....	85
41	Ceiling of Payments.....	86
42	Receivables and reimbursements.....	86
43	Taxes and Fees.....	86
44	Currency.....	86
45	Advances, credit and payment method.....	87
46	Delayed Payments.....	88
47	Good faith.....	88
48	<b>Disputes Resolution</b> .....	88





## Form of Contract

---

This CONTRACT (hereinafter called the “Contract”) is made the *[number]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of Contracting entity]* (hereinafter called the “Employer”) and, on the other hand, *[name of Consultant]* (hereinafter called the “Consultant”).

{If the Consultant consist of more than one entity, the above shall be partially amended to become as follows: “...(hereinafter called the “Employer”) and, on the other hand, a Joint Venture (name of the JV) consisting of the following entities, each member of which will be jointly and severally liable to the Employer for all the Consultant’s obligations under this Contract, namely, *[name of member]* and *[name of member]* (hereinafter called the “Consultant”).}

Whereas

(a) The Employer has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);

(b) the Consultant, having represented to the Employer that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

(c) The Employer has allocated the necessary amount to pay for the services resulting from this Contract and shall make the due payments to the Consultant in accordance with the terms and conditions of the present Contract.

(d) The following documents attached hereto shall be deemed to form an integral part of this Contract:

- a. The General Conditions of Contract
- b. The Special Conditions of Contract
- c. Appendices:

Appendix A: Description of Services

Appendix B: Key Experts



Appendix C: Fess Allowance Estimates

Appendix D: Reimbursable Expenses Estimates

Appendix E: Prepayment bank guarantee form

Appendix F: Letter of Contract Award

In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract, Appendix A; Appendix B; Appendix C and Appendix D; Appendix E. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

(e) The mutual rights and duties of the Employer and the Consultant shall be as set forth in the Contract, in particular:

a. the Consultant shall carry out the Services in accordance with the provisions of the Contract; and

b. The Employer shall make payments to the Consultant in accordance with the provisions of the Contract.

In witness whereof, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written,

for and on behalf of *[Name of Employer]*

\_\_\_\_\_  
Authorized Representative of the Employer

name, title and signature

\_\_\_\_\_  
For and on behalf of Consultant *[Name of Employer]*

\_\_\_\_\_  
Authorized Representative of the Consultant

name, title and signature

**{ in case of joint venture, all members shall sign,** in which case the power of attorney to sign on behalf of all members shall be attached. For and on behalf of each of the members of the joint venture (Consultant) *[the Joint Venture]*



Republic of Iraq

[Name of the lead member]

---

Authorized Representative on behalf of a JV (Consultant)      name, title and signature



# General Conditions of Contract

## First – General

### 1. Definitions

1.1 Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “**Applicable Law**” Means the laws, regulations, instructions and orders of Iraq issued by any authorized legal entity in the Republic of Iraq.
- (b) “**Employer**” means the Contracting entity that signs the Contract for the Services with the Selected Consultant according to the applicable Iraqi laws.
- (c) “**Consultant**” means a legally-established professional consulting person or entity selected by the Employer to provide the Services under the signed Contract.
- (d) “**Contract**” means the legally binding written agreement signed between the Employer and the Consultant and which includes all the attached documents listed in its paragraph 1 of the Form of Contract (the General Conditions (GCC), the Special Conditions (SCC), and the Appendices).
- (e) “**Day**” means a **calendar** day unless indicated otherwise.
- (f) “**Valid Date**” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) “**Experts**” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- (h) “**Foreign Currency**” means any currency other than the currency of the Republic of Iraq.
- (i) “**Government**” Means the Iraqi Government.
- (j) “**Joint Venture (JV)**” **means** an association with a legal personality distinct from that of its members, of more than one entity where one member has the entity to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Employer for the performance of the Contract. The Joint Venture also means partnership contracts wherever they appear in the GCC and SCC.



(k)“**Key Expert(s)**” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical Analysis of the Consultant’s proposal.

(L)“**Local Currency**” means the currency of the Republic of Iraq (Iraqi Dinar).

(M)“**Non-Key Expert(s)**” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract. They are not a decisive part in the Analysis of the Technical Proposal .

(N)“**Party**” means the Employer or the Consultant, as the case may be, and “Parties” means both of them.

(o)“**Services**” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.

(p)“**Sub-consultants**” means an entity (a person or an institution) to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

(q)“**Third Party**” means any person or entity other than the Government, the Employer, the Consultant or a Sub-consultant.

(r)“**Written**” means correspondence made in writing under a letter sent or delivered by hand or by fax and completed by a letter sent by the other party to the sending party confirming the receipt of the letter. The acknowledgment letter shall be sent to the address specified in the Data Sheet.

(s)“**Contract Price**” means the price specified in the Contract to be paid for the performance of the Services under the terms and conditions of the Contract.

## **2. Relationship between the Parties**

2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Employer and the Consultant. Under the contract, the consultant bears full responsibility for the experts and subconsultants, if any, who perform the services themselves and on behalf of the consultant.



### **3. Contract Governing Law**

3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable Iraqi laws and the terms of the SCC.

### **4. Language**

4.1 This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

### **5. Addresses**

5.1 The addresses shall not limit, alter or affect the meaning of this Contract.

### **6. Notices**

6.1 Any notice required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the notice is addressed, or when sent to such Party by registered or electronic mail, accompanied by an acknowledgement to confirm the receipt from the party concerned through using the addresses specified in the SCC.

6.2 Any party can change its address for notices specified in the special terms of the contract provided the other party is notified of the new address.

### **7. Site**

7.1 The required Services shall be performed at such sites as are specified in Appendix A hereto (Description of Services) and, where the site of a particular task is not so specified, at such sites, whether in Iraq or elsewhere, as the Employer may determine.

### **8. Authority of partner in charge**

8.1 The joint venture shall nominate a representative to act on behalf of all the shareholders in it and give the necessary powers to implement the contract, starting with preparing, submitting, and awarding the tender and the stage of implementing the contract.

### **9. Authorized Representatives**

9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Consultant may be taken or executed by the officials specified in the SCC.



## 10. Corrupt and Fraudulent Practices

10.1 It is the contracting entity's policy to require that Consultants, suppliers, contractors, and their personnel preserve the highest standard of ethics during the selection and execution of contracts financed by the employer.

For the purpose of this policy, corrupt and fraudulent practices are defined according to the Iraqi laws in force, and the employer adopts the following definitions:

(a) "Corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a person in charge, an employee, or a Consultant in a public liability position during the contracting or contract execution process;

(b) "Fraudulent practices" mean the otask or misrepresentation of facts that misleads, or attempts to mislead, the other party to obtain a financial gain or other benefit or to avoid an obligation;

(c) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to improperly influence their participation in contracting processes or the implementation of the contract.;

(d) "Collusive practices" means a scheme or arrangement between two or more Consultants, designed to determine artificial and non-competitive levels of prices;

(e) "obstructive practices" means destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators deliberately in order to materially impede the Employer's investigations into allegations of a corrupt, coercive or collusive practice in accordance with the relevant and applicable Iraqi laws;

10.2 The Employer will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question according to the applicable Iraqi laws.

10.3 The Employer has the right to sanction the Consultant, its partners, in accordance with the applicable Iraqi laws, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Employer-financed contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Employer-financed contract;



10.4 The Employer has the right to require that a provision be included in the Contract requiring the selected Consultant to permit the Employer to inspect its accounts, records and other documents relating to the submission of a Proposal or performance of the Contract, and to have such accounts and records audited by auditors appointed by the Employer in accordance with Iraqi law, in respect of contracts financed by the Employer.

## **Second: Validity, Commencement, Completion, Amendment, and Termination of Contract**

### **11. Validity of Contract**

11.1 This Contract shall come into force and effect on the date (the “Valid Date”) of the Employer’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the validity conditions, if any, listed in the SCC have been met.

### **12. Termination of Contract for invalidity**

12.1 If this Contract has not become valid within such time period after the date of Contract signature as specified in the SCC, the Contract shall be terminated in one of the following cases: (1) If the parties agree to terminate the Contract between them, Or (2) in case of non-agreement, one of the parties may resort to the courts or one of the methods of settling the dispute specified in the Contract, at least fifteen (15) days after the other party has given written notice of its intention to do so.

### **13. Commencement of Services**

13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services no later than the number of days after the Valid Date specified in the SCC.

### **14. Contract termination date**

14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time after the Valid Date as specified in **the SCC**.

### **15. Entire Agreement**

15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties.

### **16. Amendments**





16.1 Any amendment or variation of the terms and conditions of this Contract, including any amendment or variation of the scope of the Services, may only be made by written agreement between the Parties attached as an appendix to the contract and an integral part thereof in accordance with the applicable laws. However, each Party shall give due consideration to any proposals for amendment or variation made by the other Party.

## **17. Force Majeure**

### **(a) Definition**

17.1 For the purposes of this Contract, “Force Majeure” means an event which:

a. is beyond the reasonable control of a Party,

b. is unforeseeable,

c. is unavoidable,

d. cannot be avoided by taking necessary action towards it reasonably before entering into the contract,

e. cannot be overcome reasonably by a Party,

f. is not primarily attributable to a Party and makes its performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible under the circumstances,

g. As long as the conditions (a, b, c and d) listed above are met, Force Majeure may include, but is not limited to, riot, rebellion, terrorism, sabotage, revolt, insurrection, military takeover, civil war, Strikes, or blockades by persons who do not work for the Consultant, ammunition, explosive materials, ionic radiation or radiation contamination,

h. Except for what may be attributed to contracting with the Consultant for such ammunition, explosives or radiation, and natural disasters such as earthquakes, hurricanes, storms or volcanic tasks.

17.2 Force Majeure shall not include

a. any event which is caused by the negligence or intentional action of a Party or such Party’s Experts, Sub-consultants or agents or employees,

b. Any event that one of the parties had anticipated upon signing the contract and did not take the necessary measures to ward off it.

17.3 “Force Majeure” shall not include insufficiency of funds or failure to make any payment required hereunder.



### **(B) No Breach of Contract**

17.4 The failure of a Party to fulfill any of its obligations hereunder because of Force Majeure shall not be considered to be a breach of, or default under, this Contract, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

### **(C) Measures to be Taken**

17.5 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fifteen (15) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7 The periods of implementation of any of the tasks required under the contract will be extended to either party, for a period equal to the time lost caused by the events of force majeure and during which this party was unable to perform its duties.

17.8 During the period of his inability to perform services according to the contract and as a result of force majeure events, the consultant can, based on the instructions of the employer,

A. demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Employer, in reactivating the Services in accordance with the applicable laws; or

B-continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred in accordance with the applicable laws.

17.9-In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GCC 48.

**18. Work suspension** (There is no difference between termination and suspension; therefore, It suggested to delete Clause [18])

18.1 The Employer may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension



1. shall specify the nature of the failure, and
2. shall request the Consultant to remedy such failure within a period not exceeding fifteen (15) calendar days after receipt by the Consultant of such notice of suspension.

## **19. Suspension of execution/ Work Withdrawal/ Contract termination**

### **Suspension of Contract**

19.1 This Contract may be suspended by either Party as per provisions set up below:

#### **19.1.1 By the Consultant**

The Consultant may suspend this Contract, by not less than thirty (30) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

- a. If the Employer fails to pay any money due to the Consultant pursuant to this Contract within forty (40) calendar days after receiving written notice from the Consultant that such payment is overdue, provided that such amounts are not a subject of a dispute between the parties.
- b. If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 48. In case of thirty days from the date of suspension of execution, Clause GCC 19.1.2 (d) shall be observed.

#### **19.1.2 Suspension of contract execution by the Employer**

The Employer may suspend the execution of the Contract for a period specified by the Employer under a written notice sent to the Consultant for justified reasons in accordance with the applicable legislation.

### **Withdrawal of Work (Proposal for conducting the same works)**

19.2-The Employer may withdraw the work from the Consultant, by not less than fifteen (15) calendar days' written notice to Consultant, in case of the occurrence of any of the events specified below:

- c. If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13.



D-If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;

E-If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

F-If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 48;

G-If the Employer determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practices, in competing for or in executing the Contract, then the Employer may, after giving fifteen (15) calendar days written notice to the Consultant, withdraw the work from the Consultant.

### **Termination of Contract**

19.3-This Contract may be terminated by either Party as per provisions set up below:

#### **19.3.1- Contract termination by the Consultant**

The Consultant may **terminate this Contract**, by not less than thirty (30) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

H-If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;

I-If the Consultant fails to comply with any final decision reached as a result of dispute resolution procedures pursuant to **Clause GCC 48**;

J-If the Employer is in material breach of its obligations pursuant to this Contract and has not remedied the same within the period specified in **the SCC**, or any other period that may be approved by the parties.

#### **19.3.2- Contract termination by the Employer**

The Employer may terminate this Contract, by not less than twenty eight (28) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

A-If the Employer, in its sole discretion, decides to terminate this Contract for the public interest in accordance with the dissolved CPA Order No. (87) of 2004, or any law replacing it.



B-If, for reasons beyond its control, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;

#### **19.4 Suspension of Rights and duties**

Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and duties of the Parties hereunder shall cease, except

- A- The rights and duties binding on the date of withdrawal of work or expiry,
- B- The duty of confidentiality in accordance with Article 22 of the General Conditions.
- C- The consultant's duty to allow the employer to inspect, copy, and audit the consultant's accounts and records in accordance with Article 25 of the General Conditions,
- D- Any right of any party, according to the Iraqi laws in force.

#### **19.5 Suspension of Services**

Upon suspension or termination of this Contract by notice of either Party to the other pursuant to Clause GCC 19, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Employer, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 and GCC 28.

#### **19.6 Payment upon Suspension, Termination, or Withdrawal of Work**

Upon suspension of execution, termination of this Contract, or withdrawal of work, the Employer shall make the following payments to the Consultant:

- a. Fees allowance for Services satisfactorily performed prior to the valid date of withdrawal of work, other expenses, provisional sums and contingency for expenditures actually incurred prior to the valid date of withdrawal; and pursuant to Clause GCC 42;
- b. In case of withdrawal of work pursuant to Clause 19.3, reimbursement of any reasonable cost incidental to the prompt and orderly withdrawal of work, including the cost of the return travel of the Experts in accordance with the applicable Iraqi laws.



## Third - Duties of the Consultant

### 20. General

#### A-Performance level

20.1 The Consultant shall perform the Services and carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and valid equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Employer, and shall at all times Assist and safeguard the Employer's legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Employer. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. If the Employer does not approve the sub-consultant, the Consultant shall substitute the sub-consultant until the approval of the Employer is obtained.

20.4 General companies (state and public sector) cannot subcontract without the Employer's prior consent in accordance with the applicable laws. This Contract is only for a part of the services.

#### B-Applicable law on services

20.5 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Iraqi Law.

20.6 During the implementation of the contract, the consultant must aproposale by the embargo practiced by the Republic of Iraq in the matter of importing goods and services according to the following:

- A. Legislation or official instructions in force, which prohibit the employer's country from establishing commercial relations with that country, or
- B. As a result of the act of responding to a decision issued by the United Nations / Security Council under Chapter VII of the United Nations Constitution, according to which the employer country is prohibited from contracting to import any goods from that country,



carrying out works or providing services with that country, or paying any amounts to that country, people, or Destinations in that state.

- C. As a result of the consultant's exclusion or the supplier of goods or the porter of works, based on a decision by the Iraqi official authorities as a result of involvement in corruption and illegal acts.

20.7 The Employer shall notify the Consultant in writing of relevant local customs, and the Consultant shall, after such notification, respect such customs.

## **21. Conflict of Interests**

21.1 The Consultant shall hold the Employer's interests paramount, without any consideration for future work, and strictly avoid conflict with other tasks or their own corporate interests.

### **A- Consultant's non-benefit from Comtasks, Discounts.**

21.1.1 The payment of the Consultant pursuant to Clauses 41 and 46 shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade comtask, discount or similar payment in connection with tasks pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.

21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Employer on the procurement of goods, works or services, the Consultant shall not benefit from any discounts or comtasks in the exercise of such procurement responsibility, and they shall be for the account of the Employer.

### **B- Consultant and Affiliates's non correlation with some tasks**

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in the SCC.

### **C- Prohibition of Conflicting Activities**

21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional tasks that would conflict with the tasks assigned to them under this Contract.



#### **D- Strict Duty to Disclose Conflicting Activities**

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that impacts their capacity to serve the best interest of their Employer. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

#### **22. Confidentiality**

22.1 Except with the prior written consent of the Employer, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.

#### **23. Liability of the Consultant**

23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

#### **24. Consultant's insurance**

24.1 The Consultant shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage specified in the SCC, and the Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13. At the Employer's request, the Consultant shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

24.2 The price of insurance shall be specified in **the SCC** and no amendments to insurance policies may be made without the prior consent of the Employer.

#### **25. Accounting, Inspection and Auditing**

25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs. These documents shall be provided to the competent authorities at the request of the Employer to inspect the site and to check the project records in accordance with the applicable Iraqi laws.





## **26. Reports submission**

26.1 The Consultant shall submit to the Employer the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

## **27. Employer's copyrights**

27.1 All reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Employer in the course of the Services shall be confidential and become and remain the absolute property of the Employer. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Employer. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Employer.

27.2 This Clause excludes software rights and licensing agreements between the consultant and other parties where they shall be specified in the **SCC** according to the required service.

## **28. Equipment, Vehicles and Materials**

28.1 Equipment, vehicles and materials made available to the Consultant by the Employer, or purchased by the Consultant wholly or partly with funds provided by the Employer, shall be the property of the Employer and shall be marked accordingly. Upon termination or expiration of this Contract, the Consultant shall make available to the Employer an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Employer's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Employer in writing, shall insure them at the expense of the Employer in an amount equal to their full replacement value.

28.2 Any equipment or materials brought by the Consultant or its Experts into the Employer's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.

# **Fourth – Consultant's Experts and Sub-Consultants**

## **29. Description of Key Experts**



29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

29.2 The estimated time inputs of the Key Experts specified in Appendix B may be amended by the Consultant after submitting a written notice to the Employer provided that **the time input amendments of any expert shall not exceed ten percent (10%) or one week, whichever is greater, of the Basic Rating and that the total of amendment shall not exceed the financial ceiling specified in Clause GCC 41.2.**

29.3 The number and time inputs of the Key Experts may be increased by written agreement between the Employer and the Consultant in the event of additional work outside the scope of the Services specified in Appendix A. If the price of payments due under the present Contract exceeds the ceiling specified in Clause 41.1, then the parties shall sign an amendment to the contract in accordance with the laws in force.

### **30. Replacement of Key Expert**

30.1 Except as the Employer may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide as a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

### **31. Approval to increase Key Experts**

31.1 If the provision of services is required during the execution of the contract, the number of Key Experts may be increased by submitting the Expert's CV to the Employer by the Consultant for review and approval. If the Employer does not object in writing (justifying its objection) within twenty-eight (28) days of receipt of the CV, then the Employer shall deem the additional Key Experts acceptable.

31.2 The remuneration of the additional Key Experts are based on remuneration of the Key Experts who possess the same qualifications and experience.

### **32. Deportation of Experts or Sub-consultants**

32.1 If the Employer finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Employer determine that Consultant's Expert of Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive [or obstructive] practice while performing the Services, the Consultant shall,



at the Employer's written request, provide a replacement.

32.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Employer to be incompetent or incapable in discharging assigned duties, the Employer, specifying the grounds therefore, may request the Consultant to provide a replacement.

32.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Employer.

### **33. Replacement/ Deportation of Experts – Impact**

33.1 Except as the Employer may otherwise agree, the Consultant shall bear all additional travel and other costs arising out of or incidental to any deportation and/or replacement, and the remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

### **34. Working Hours, Overtime, Leave, etc.**

34.1 Working hours and holidays for Experts are set forth in Appendix B. Specific times are actual working hours, which do not include travel periods. The working hours and leave are specified in Appendix B. To account for travel time to/from the Employer's country, experts carrying out Services inside the Employer's country shall be deemed to have commenced or finished work in respect of the Services such number of days before their arrival in, or after their departure from, the Employer's country as is specified in Appendix B.

34.2 The Consultant shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in Appendix B, and the Consultant's remuneration shall be deemed to cover these items.

34.3 Any taking of leave by Key Experts shall be subject to the prior approval by the Consultant who shall ensure that absence for leave purposes will not delay the progress and or impact adequate supervision of the Services.

## **Fifth - Duties of the Employer**

### **35. Assistance and Exemptions**

35.1 Unless otherwise specified in the SCC, the Employer shall use its best efforts to:



- a. Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.
- b. Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Iraq while carrying out the Services under the Contract.
- c. Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.
- d. Issue to officials, agents and representatives of the Government all such instructions and information as may be necessary or appropriate for the prompt and valid implementation of the Services.
- e. Assist the Consultant and the Experts and any Sub-consultants employed by the Consultant for the Services with obtaining exemption from any requirement to register or obtain any permit to practice their profession or to establish themselves either individually or as a corporate entity in the Employer's country according to the applicable Iraqi laws.
- f. Assist the Consultant, any Sub-consultants and the Experts of either of them with obtaining the privilege, pursuant to the applicable Iraqi laws, of bringing into Iraq reasonable amounts of foreign currency for the purposes of the Services or for the personal use of the Experts and of withdrawing any such amounts as may be earned therein by the Experts in the execution of the Services.
- g-Provide to the Consultant any such other assistance as may be specified in **the SCC**.

### **36. Access to Project Site**

36.1 The Employer warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Employer will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **37. Change in the Applicable Law Related to Taxes and Fees**

37.1 If, after seven (7) days prior to the Proposal Submission Deadline, there is any change in the applicable laws, regulations, decisions, orders, and instructions in Iraq with respect to taxes where they become valid, issued, canceled or amended in the Republic of Iraq where the final submission site, which may subsequently affect the submission deadline and / or the price of the Contract, then an increase or decrease in the submission date and / or the Contract price will be appropriately dependent on the extent to which the consultant is affected in the performance of any of its obligations under the contract. Thereupon, the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and



corresponding adjustments shall be made to the Contract price amount specified in Clause GCC 41.1

### **38. Services, Facilities and Property of the Employer**

38.1 The Employer shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.

38.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 41.3.

### **39. Counterpart Personnel (Employer's Personnel)**

39.1 The Employer shall make available to the Consultant free of charge such professional and Assistance counterpart personnel, to be nominated by the Employer with the Consultant's advice, if specified in Appendix A.

39.2 If counterpart personnel are not provided by the Employer to the Consultant as and when specified in Appendix A, the Employer and the Consultant shall agree on (a) how the affected part of the Services shall be carried out, and (b) the additional payments, if any, to be made by the Employer to the Consultant as a result thereof pursuant to Clause GCC 41.3.

39.3 Professional and Assistance counterpart personnel, excluding Employer's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Employer shall not unreasonably refuse to act upon such request. If the Employer fails to replace them, work shall be done under Clause 39.2 above.

### **40. Payments**

40.1 In consideration of the Services performed by the Consultant under this Contract, the Employer shall make such payments to the Consultant for the deliverables in such manner as is provided by GCC Payments to the Consultant below.

## **Sixth - Payments to the Consultant**



#### **41. Ceiling of payments**

41.1 An estimate of the cost of the Services is set forth in Appendix C (Remuneration) and Appendix D (Other Expenses, Provisional Sums and Contingency).

41.2 Payments under this Contract shall not exceed the ceilings in foreign currency and in local currency specified in **the SCC**.

41.3 For any payments in excess of the ceilings specified in GCC41.2, an amendment to the Contract shall be signed by the Parties in accordance with the applicable Iraqi laws.

#### **42. Receivables and reimbursements**

42.1 The Employer shall pay to the Consultant

1. remuneration that shall be determined on the basis of time actually spent by each Expert in the performance of the Services after the date of commencing of Services or such other date as the Parties shall agree in writing; and

2. Other expenses, provisional sums and contingency that are actually and reasonably incurred by the Consultant in the performance of the Services.

42.2 All payments shall be at the rates set forth in Appendix C and Appendix D.

42.3 Unless the SCC provides for the price adjustment of the remuneration rates, said remuneration shall be fixed for the duration of the Contract.

42.4 The remuneration rates shall cover: (a) such salaries and allowances as the Consultant shall have agreed to pay to the Experts as well as factors for social charges and overheads (bonuses or other means of profit-sharing shall not be allowed as an element of overheads), (b) the cost of backstopping by home office staff not included in the Experts' list in Appendix B, (c) the Consultant's profit, and (d) any other **items as specified in the SCC**.

42.5 Any rates specified for Experts not yet appointed shall be provisional and shall be subject to revision, with the written approval of the Employer, once the applicable remuneration rates and allowances are known.

#### **43. Taxes and Fees**

43.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in **the SCC**.

43.2 As an exception to the above and as stated in Clause SCC 43.1, all local identifiable **indirect** taxes itemized and finalized at Contract negotiations are reimbursed to the Consultant in accordance with applicable regulations.

#### **44. Currency**



44.1 Any payment under this Contract shall be made in the currency specified in the SCC.

#### **45. Advances, Credit and Payment method**

45.1 Advances and Credit in respect of the Services shall be made as follows:

a. *Advance payment.* Within a period of twenty-nine (29) days after the date of award, the Employer shall pay to the Consultant an advance payment as specified in **the SCC**. Unless otherwise indicated in the SCC, an advance payment shall be made against an advance payment bank guarantee acceptable in Iraq according to the official bulletin issued by the Central Bank of Iraq in an amount (or amounts) and in a currency (or currencies) specified in **the SCC**. The guarantee shall be irrevocable and payable in cash, immediately without any restriction or condition, and at the first claim of the Employer. If the guarantee is issued by a bank outside the Employer's country, then the bank shall have an approved financial institution within the Employer's country in order for the guarantee to become valid. Such guarantee (a) is to remain valid until the advance payment has been fully set off, and (b) is to be in the form set forth in Appendix E, or in such other form as the Employer shall have approved in writing in accordance with the applicable laws. In all cases, the guarantee form shall be sent to the Employer including reference, Contract address and full Consultant. The price of the guarantee can be reduced by payments made by the Employer and becomes null and void when the full prepayment price is paid to the Employer. The guarantee shall be returned to the Consultant immediately after its expiry.

b. *The Itemized Invoices.* As soon as practicable and not later than fifteen (15) days after the end of each calendar month during the period of the Services, or after the end of each time interval otherwise indicated in **the SCC**, the Consultant shall submit to the Employer, in duplicate, itemized invoices, accompanied by the receipts or other appropriate supporting documents, of the amounts payable pursuant to Clauses GCC 44 and GCC 45 for such interval. Separate invoices shall be submitted for expenses incurred in foreign currency and in local currency. Each invoice shall show remuneration and reimbursable expenses separately.

c. The Employer shall pay the Consultant's invoices within the period specified in the SCC. Only such portion of an invoice that is not satisfactorily supported may be withheld from payment. Should any discrepancy be found to exist between actual payment and costs authorized to be incurred by the Consultant, the Employer may add or subtract the difference from any subsequent payments.

b. *The Final Payment.* The final payment under this Clause shall be made within (90) days after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Employer. The Services shall be deemed completed and finally accepted by the Employer and the final report and final invoice shall be deemed approved by the Employer as satisfactory unless the Employer gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Employer has paid or has



caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Employer within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Employer for reimbursement shall be made within twelve (12) calendar months after receipt of the final report and advance, approved by the employer.

d. All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

F. All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

#### **46. Delayed Payments**

46.1 If the Employer had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 45.1, the Parties shall agree to resolve the matter satisfactorily and as specified in the SCC.

### **Seventh - Equality and good faith**

#### **47. Good faith**

47.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

### **Eighth – Disputes Resolution**

48.1 The mechanism stipulated in the Instructions for Implementing Government Valid Contracts in Dispute.





## Special Conditions of Contract (SCC)

REF. of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>First – General</b>	
G3,1	The Contract shall be construed in accordance with the provisions of the applicable Iraqi laws regarding public contracts and the instructions of the Ministry of Planning ( <b>Department</b> of General Government Contracts)
4,1	The controlling language of Contract is <i>[insert language]</i>
6,1 & 6,2	<p>The addresses for notices delivery shall be as follows:</p> <p><u>For Employer:</u></p> <p>Attention: <i>[insert the name of the employee in charge]</i></p> <p>Phone: _____</p> <p>Fax: _____</p> <p>Email: _____</p> <p><u>For consultant:</u></p> <p>Attention: <i>[insert the name of the officer in charge]</i></p> <p>Phone: _____</p> <p>Fax: _____</p> <p>Email: _____</p>
8,1	<p><i>[If the Consultant consists only of one entity, state “N/A”];OR If the Consultant is a Joint Venture consisting of more than one entity, insert the name of the JV. ]</i></p> <p>The Lead Member on behalf of the JV is: <i>[insert the name the lead member]</i></p> <p><i>[If Consultants are individuals, state “N/A”]</i></p>
9,1	<p>The Authorized Representatives are:</p> <p>For the Employer: <i>[insert the name of the authorized representative (under official authorization)]</i></p> <p>For the Consultant: <i>[insert the name of the authorized representative (under official authorization or proxy certified by the official authorities)]</i></p>



REF. of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
<b>Second - Validity of Contract, Commencement of Execution, Completion of Work, Amendment and Suspension of Execution/ Withdrawal of Work? Termination of Contract</b>	
11.1	The date on which this Contract shall come into effect is: <i>[insert the date of validity of contract]</i>
12.1	Termination of Contract for Failure to Become Valid: The time period shall be <i>[insert time period, e.g.: three months]</i> after signing the Contract. N/A
13.1	The date for the commencement of Services is <i>[insert time period, e.g.: three weeks]</i> after the date of its validity.
14.1	The Contract Completion Date is <i>[insert date]</i> .
17.8	N/A
19.1.1	Suspension of the Contract by the Consultant. <i>[insert (applicable, not applicable)]</i>
19.1.2	Suspension of the Contract by the Consultant <i>[insert any conditions or determinants]</i>
19.2 H	The period of tackling the failure of the Employer shall be <i>[insert time period, e.g.: eight weeks]</i>
19.3.1	Suspension of the Contract by the Consultant <i>[insert (applicable, not applicable)]</i>
19.3.2	Termination of the contract by the Employer ( <b>insert any conditions or determinants according to the legislation in force</b> ).
<b>Third – Duties of Consultant</b>	
21.1.3	The Employer <i>[reserves or does not reserve]</i> the right to determine on a case-by-case basis whether the Consultant shall be disqualified from providing goods, works or non-consulting services due to a conflict of interests.
23.1	<i>[No additional provisions or the following provisions are binding on determining the consultant's liability...]</i>
24,1 & 24,2	The insurance coverage against the risks shall be as follows: [Delete what is not applicable except (a)]. (a) Professional liability insurance, with a minimum coverage of <i>[insert amount and currency]</i> which shall be not less than the total ceiling amount of the Contract;



REF. of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>(b) Third Party motor vehicle [<i>insert amount and currency</i>] which should not be below the ceiling specified by the applicable laws;</p> <p>(c) Third Party liability insurance [<i>insert amount and currency</i>] which should not be below the ceiling specified by the applicable laws;</p> <p>(d) Employer’s liability and workers’ compensation insurance in respect of the experts and Sub-consultants in accordance with the applicable law until [<i>insert amount and currency</i>] with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and</p> <p>(e) Insurance against loss of or damage to the Consultant’s property and documents [<i>insert amount and currency</i>] which are used to implement services in accordance with the contract.</p>
27,1	<i>[If applicable, insert any exceptions to proprietary rights provision]</i>
27,2	<p>If there is to be no restriction on the future use of these documents/software by either Party, this Clause SCC 27.2 shall be deleted. If the Parties wish to restrict such use, any of the following options could be used:</p> <p>a- The Consultant shall not use these [<i>insert what applies....documents and software</i>] for purposes unrelated to this Contract without the prior written approval of the Employer. Or</p> <p>b-The Employer shall not use these [<i>insert what applies....documents and software</i>] for purposes unrelated to this Contract without the prior written approval of the Consultant.</p> <p>C. Neither Party shall use these [<i>insert what applies....documents and software</i>] for purposes unrelated to this Contract without the prior written approval of the other Party.</p>
<b>Fourth – Duties of Employer</b>	
35,1	<i>[List here any changes or additions to the Clause. If there are no such changes or additions, delete this Clause]</i>



REF. of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
35,1 (g)	<i>[List here any other assistance to be provided for the Consultant. If there is no such other assistance, insert N/A]</i>
37	In case of any change in the applicable laws and regulations and decisions and orders related to taxes and fees after seven days before the proposal submission deadline, the remuneration and the cost of the reimbursed expenses due to the consultant in accordance with the Contract [insert (may or <b>may not</b> )] be amended.
<b>Sixth – Payment to Consultant</b>	
41,2	The ceiling in foreign currency or currencies is: <i>[insert amount and currency for each currency]</i> and <i>[indicate: "inclusive" or "exclusive"]</i> of local indirect taxes. The ceiling in local currency is <i>[insert amount and currency]</i> and <i>[indicate: "inclusive" or "exclusive"]</i> of local indirect taxes. Any indirect local taxes chargeable in respect of this Contract for the Services provided by the Consultant shall be <i>[insert the value of taxes as specified in the negotiations on the contract]</i>
42,3	The Consultant's remuneration <i>shall or shall not</i> be amended according to the applicable laws and the approved currency.
42,4	The following items shall be included in the receivables <i>[insert items ...]</i>
43,1	Tax exemptions for consultants are: Foreign Consultants are [exempted, not exempted] from income tax, Iraq reconstruction taxes and other applicable taxes if the Contract is for development projects and is only on the Development Program list.
44,1	The following currencies are used for payments: <i>[Insert the currency that shall be the same currency used in the financial proposa]</i>
45,1 (a), (b) & (c)	The price of the advance payment is <i>[insert the price in foreign currency and the price in the local currency]</i> and it shall be paid within <i>[insert the number of days]</i> days after the contract comes into force and according to the budget execution instructions. The business owner will recover the advance payment according to the modifications and additions to the articles of the general conditions of the contract



REF. of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>The amount of the advance payment guarantee is <i>[insert amount in the foreign currency and in local currency]</i>.</p> <p>The Consultant shall submit to the Employer itemized invoices at time intervals of <i>[insert the date of submitting the itemized invoices]</i>. The itemized invoices shall be paid within <i>[insert number]</i> of days after the advance payment is received and approved by the Employer.</p>
45,1 (h)	<p>The Consultant's accounts are:</p> <p>For foreign currency: <i>[insert account]</i>.</p> <p>For local currency: <i>[insert account]</i>.</p>
46,1	<p>Disputes regarding delayed payments shall be settled by <i>[state the means to be used to address the delay in payment: pledging the Contract's financial dues to the Employer's account, delaying work, extending the Contract periods or "N/A]</i></p>
48,1	<p>: <i>[insert the dispute resolution mechanism]</i></p>



## **Appendices of Contract**

### APPENDIX A – SERVICES DESCRIPTION

This Appendix shall include the final Terms of Reference worked out by the Employer and the Consultant during the negotiations.

### APPENDIX B - KEY EXPERTS

This Appendix shall include Form TECH-6 of the Consultant's Technical Proposal and finalized at the Contract's negotiations.

### APPENDIX C – REMUNERATION COST ESTIMATES

This Appendix shall include amended Form FIN-3 of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to Form FIN-3 at the negotiations or state that none has been made.

If the Consultant is selected according to Quality-Cost-Based Selection QQBS or if the Employer asks the consultant for a detailed cost during the negotiation period, the following shall be added:

"The agreed remuneration shall be stipulated in Annex C-1 which will be submitted on the basis of the Annex 3 Financial Form submitted by the Consultant to the Employer prior to the negotiation period."

If the information contained in this Appendix is found to be incorrect, the Employer may amend the remunerations, which are found to be incomplete or inaccurate. This amendment shall be applied throughout the contract period retroactively if checking is made after several payments given by the Employer to the Consultant.



## APPENDIX D – REIMBURSABLE EXPENSES COST ESTIMATES

This Appendix shall include amended Form FIN-4 of the Consultant’s Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to Form FIN-3 at the negotiations or state that none has been made.

All reimbursable expenses shall be reimbursed at actual cost, unless otherwise explicitly provided in this Appendix, and in no event shall reimbursement be made in excess of the Contract amount.



## APPENDIX E - FORM OF ADVANCE PAYMENTS GUARANTEE

### Bank Guarantee for Advance Payment

[insert **commercial Bank's Name, and Address of Issuing Branch or Office**]

**Beneficiary:** [name and address of Employer]

**Date:** [insert date]

**ADVANCE PAYMENT GUARANTEE No.:** [Insert advance payment No.]

We have been informed that [ insert *name of Consultant or a name of the Joint Venture, same as appears on the signed Contract*] (hereinafter called "the Consultant") has entered into Contract No. [ insert reference number of the contract] dated [insert date] with the Beneficiary, for the provision of [ insert a brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of [insert amount in figures]) [ insert amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we [ insert name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert currency] [ insert amount in figures] [insert currency and amount in words]1 upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above shall have been received by the Consultant on their account number [insert account number] at [name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as "paid" by the Employer which shall be presented to us.

This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid





invoice indicating that the Consultant has made full repayment of the amount of the advance payment on [insert date]. Consequently, any demand for payment under this guarantee shall be received by us at this office on or before that date.

[signature(s)]



## APPENDIX F - FORM OF AWARD LETTER

[insert: place and date]

[insert: Selected Consultant Name]

We would like to inform you that your proposal, dated [ insert proposal date], whose subject is execution of services [insert a brief description of the services] at [insert the price of the contract], made after the corrections and amendments as per the instructions to consultants, has been accepted by us.

Signature

Name and position of the officer in charge [insert the contracting entity / person authorized by Employer]

Contracting entity / Employer [*insert Contracting entity / Employer*]

Attached: Contract Agreement



# Republic of Iraq

## Standard Form of Consultancy Services Contracts

### Lump-Sum Based Contract

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

**Project** Reference: \_\_\_\_\_

between

[Contracting entity]

And

[Consultant]

Dated: [insert date]



## Contents list

### General Conditions of Contract (GCC)

1	Definitions.....	104
2	Relationship between the Parties.....	105
3	Contract Governing Law.....	105
4	Language.....	105
5	Addresses.....	106
6	Notices.....	106
7	Site.....	106
8	Authority of partner in Charge.....	106
9	Authorized Representatives.....	106
10	Corrupt and Fraudulent Practices.....	106
11	Contract Validity.....	108
12	Termination of Contract for invalidity.....	108
13	Commencement of Services.....	109
14	Contract Termination Date.....	109
15	Entire Agreement.....	109
16	Amendments.....	109
17	Force Majeure.....	109
18	Work Suspension.....	111
19	Suspension of execution/ Work Withdrawal/ Contract termination.....	112
20	General.....	115
21	Conflict of Interests.....	116
22	Confidentiality.....	117
23	Liability of the purchaser.....	117
24	Consultant's insurance.....	118
25	Accounting, Inspection and Auditing.....	118
26	Repos submission.....	118
27	Employer's copyrights.....	119
28	Equipment, Vehicles and Materials.....	119
29	Description of Key Experts.....	120



30	Replacement of Key Experts.....	120
31	Suspension of key experts or sub-consultants from work.....	120
32	Assistance and exemptions.....	121
33	Entry to Project Site.....	121
34	Change in applicable laws and systems, related to taxes and fees.....	121
35	Services, Facilities and Property of the Employer.....	122
36	Counterpart Personnel.....	122
37	Payments.....	122
38	Price Contract.....	123
39	Taxes.....	123
40	Currency.....	123
41	Advances, credit and payment method.....	123
42	Delayed Payments.....	125
43	Good faith.....	125
44	Consultant complaints, disputes and arbitration.....	125



## Contract Form

This CONTRACT (hereinafter called the “Contract”) is made the [number] day of the month of [month], [year], between, on the one hand, [name of Employer or Recipient or Beneficiary] [hereinafter called the “Employer”] and, on the other hand, [name of Consultant] (hereinafter called the “Consultant”).

### WHEREAS

(a) the Employer has requested the Consultant to provide certain consulting services as defined in this Contract (hereinafter called the “Services”);

(b) the Consultant, having represented to the Employer that it has the required professional skills, expertise and technical resources, has agreed to provide the Services on the terms and conditions set forth in this Contract;

(c)-the Employer has allocated the necessary amount to pay for the services resulting from this Contract and shall make the due payments to the Consultant in accordance with the terms and conditions of the present Contract.

(d) The following documents attached hereto shall be deemed to form an integral part of this Contract:

- (a) The General Conditions of Contract
- (b) The Special Conditions of Contract;
- (c) Appendices:

Appendix A: Services Description

Appendix B:Key Experts

Appendix C:Breakdown of Contract Price

Appendix D:Form of Advance Payments Guarantee



In the event of any inconsistency between the documents, the following order of precedence shall prevail: The Special Conditions of Contract; the General Conditions of Contract, Appendix A; Appendix B; Appendix C; Appendix D. Any reference to this Contract shall include, where the context permits, a reference to its Appendices.

(d) The mutual rights and duties of the Employer and the Consultant shall be as set forth in the Contract, in particular:

- the Consultant shall carry out the Services in accordance with the provisions of the Contract; and
- the Employer shall make payments to the Consultant in accordance with the provisions of the Contract.

(T) The parties have signed on the contract via their representatives at the above set out date.

For and on behalf of [Name of Employer]

\_\_\_\_\_  
Authorized Representative of the Employer

name, title and signature

For and on behalf of [Name of Consultant or Name of a Joint Venture]

\_\_\_\_\_  
Authorized Representative of the Consultant

name and signature

{For a joint venture, all members shall sign, in which case the power of attorney to sign on behalf of all members shall be attached.

[Name of the lead member]

\_\_\_\_\_  
Authorized Representative on behalf of a Joint Venture

name, title and signature



## General Conditions of Contract

### First – General

#### 1. Definitions

**1.1** Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- (a) “**Applicable Law**” Means the laws, regulations, instructions and orders of Iraq issued by any authorized legal entity in the Republic of Iraq.
- (b) “**Employer**” means the Contracting entity that signs the Contract for the Services with the Selected Consultant according to the applicable Iraqi laws.
- (c) “**Consultant**” means a legally-established professional consulting person or entity selected by the Employer to provide the Services under the signed Contract.
- (d) “**Contract**” means the legally binding written agreement signed between the Employer and the Consultant and which includes all the attached documents listed in its Clause 1 of the signed Agreement of Contract, the General Conditions (GCC), the Special Conditions (SCC), and the Appendices.
- (e) “**Day**” means a **calendar** day.
- (f) “**Validity Date**” means the date on which this Contract comes into force and effect pursuant to Clause GCC 11.
- (g) “**Experts**” means, collectively, Key Experts, Non-Key Experts, or any other personnel of the Consultant, Sub-consultant or JV member(s) assigned by the Consultant to perform the Services or any part thereof under the Contract.
- (h) “**Foreign Currency**” means any currency other than the currency of the Republic of Iraq.
- (i) “**Government**” means the Iraqi Government.
- (j) “**Joint Venture (JV)**” **means** an association with a legal personality distinct from that of its members, of more than one entity where one member has the entity to conduct all businesses for and on behalf of any and all the members of the JV, and where the members of the JV are jointly and severally liable to the Employer for the performance of the Contract. The Joint Venture also means partnership contracts wherever they appear in the GCC and SCC.





(k)“**Key Expert(s)**” means an individual professional whose skills, qualifications, knowledge and experience are critical to the performance of the Services under the Contract and whose Curricula Vitae (CV) was taken into account in the technical Analysis of the Consultant’s proposal.

(i)“**Local Currency**” means the currency of the Republic of Iraq (Iraqi Dinar).

(m)“**Non-Key Expert(s)**” means an individual professional provided by the Consultant or its Sub-consultant to perform the Services or any part thereof under the Contract. They are not a decisive part in the Analysis of the Technical Proposal.

(n)“**Party**” means the Employer or the Consultant, as the case may be, and “Parties” means both of them.

(o)“**Services**” means the work to be performed by the Consultant pursuant to this Contract, as described in Appendix A hereto.

(p)“**Sub-consultants**” means an entity (a person or an institution) to whom/which the Consultant subcontracts any part of the Services while remaining solely liable for the execution of the Contract.

(q)“**Third Party**” means any person or entity other than the Government, the Employer, the Consultant or a Sub-consultant.

(r)“**Written**” means correspondence made in writing under a letter sent or delivered by hand or by fax and completed by a letter sent by the other Party to the sending Party confirming the receipt of the letter. The acknowledgment letter shall be sent to the address specified in the Data Sheet.

(S)“**Contract Price**” means the price specified in the Contract to be paid for the performance of the Services under the terms and conditions of the Contract.

## **2. Relationship between the Parties**

2.1 Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the Employer and the Consultant. The Consultant, subject to this Contract, has complete charge of the Experts and Sub-consultants, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

## **3. Contract Governing Law**

3.1 This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable Iraqi laws and the terms of the SCC.

## **4. Language**



4.1 This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.

## **5. Addresses**

5.1 The addresses shall not limit, alter or affect the meaning of this Contract.

## **6. Notices**

6.1 Any notice required or permitted to be given or made pursuant to this Contract shall be in writing in the language specified in Clause GCC 4. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the notice is addressed, or when sent to such Party by registered or electronic mail, accompanied by an acknowledgement to confirm the receipt from the party concerned through using the addresses specified in the SCC.

6.2 A Party may change its address for notice hereunder by giving the other Party any notice of such change to the address specified in the SCC.

## **7. Site**

7.1 The Services shall be performed at such sites as are specified in Appendix A hereto (Description of Services) and, where the site of a particular task is not so specified, at such sites, whether in Iraq or elsewhere, as the Employer may approve.

## **8. Authority of Partner in Charge**

8.1 In case the Consultant is a Joint Venture, the members hereby authorize the member specified in the SCC to act on their behalf in exercising all the Consultant's rights and duties towards the Employer under this Contract, including without limitation the receiving of instructions and payments from the Employer.

## **9. Authorized Representatives**

9.1 Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the Employer or the Consultant may be taken or executed by the officials specified in the SCC.

## **10. Corrupt and Fraudulent Practices**



10.1 It is the contracting entity's policy to require that Consultants, suppliers, contractors, and their personnel to observe the highest standard of ethics during the selection and execution of such contracts.

For the purpose of this policy, corrupt and fraudulent practices are defined according to the Iraqi laws in force, and the employer adopts the following definitions:

(a) "Corrupt practice" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a person in charge, an employee, or a Consultant in a public liability position during the contracting or contract execution process;

(b) "Fraudulent practice" is the otask or misrepresentation of facts that misleads, or attempts to mislead, the other party and influence the contracting process or the execution of the Contract;

(c) "Coercive practices" means harming or threatening to harm, directly or indirectly, persons or their property to improperly influence their participation in contracting processes or the execution of the contract;

(d) "Collusive practices" means a scheme or arrangement between two or more Consultants, designed to determine artificial and non-competitive levels of prices;

(e) "Obstructive practices" means destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators deliberately in order to materially impede the Employer's investigations into allegations of a corrupt, coercive or collusive practice in accordance with the relevant and applicable Iraqi laws;

10.2 The Employer will reject a proposal for award if it determines that the Consultant recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the contract in question according to the applicable Iraqi laws.



10.3 The Employer has the right to sanction the Consultant, its partners, in accordance with the applicable Iraqi laws, including declaring the Consultant ineligible, either indefinitely or for a stated period of time, to be awarded a Employer-financed contract if it at any time determines that the Consultant has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, an Employer-financed contract;

10.4 The Employer has the right to require that a provision be included in the Contract requiring the selected Consultant to permit the competent Iraqi authorities to investigate and inspect its accounts, records and other documents relating to the submission of a Proposal or performance of the Contract, and to have such accounts and records audited by auditors appointed by the Employer in accordance with Iraqi law, in respect of contracts financed by the Employer.

## **Second: Validity, Commencement, Expiration, Amendment, Suspension/Withdrawal/ Termination of Contract**

### **11. Contract Validity**

11.1 This Contract shall come into force and effect on the date (the “Valid Date”) of the Employer’s notice to the Consultant instructing the Consultant to begin carrying out the Services. This notice shall confirm that the validity conditions, if any, listed in the SCC have been applied.

### **12. Termination of Contract for invalidity**

12.1 If this Contract has not become valid within such time period after the date of Contract signature as specified in the SCC, the Contract shall be terminated in one of the following cases: (1) If the parties agree to terminate the Contract between them, Or (2) in case of non-agreement, one of the Parties may resort to the courts or one of the methods of settling the dispute specified in the Contract, at least fifteen (15) days after the other party has given written notice of its intention to do so.



### **13. Commencement of Services**

13.1 The Consultant shall confirm availability of Key Experts and begin carrying out the Services no later than the number of days after the Valid Date specified in **the SCC**.

### **14. Contract Termination Date**

14.1 Unless terminated earlier pursuant to Clause GCC 19 hereof, this Contract shall expire at the end of such time after the Valid Date as specified in **the SCC**.

### **15. Entire Agreement**

15.1 This Contract contains all covenants, stipulations and provisions agreed by the Parties.

### **16. Amendments**

16.1 Any amendment or variation of the terms and conditions of this Contract, including any amendment or variation of the scope of the Services, may only be made by written agreement between the Parties attached as an appendix to the contract and an integral part thereof in accordance with the applicable laws. However, each Party shall give due consideration to any proposals for amendment or variation made by the other Party.

### **17. Force Majeure**

#### **(a) Definition**

17.1 For the purposes of this Contract, “Force Majeure” means an event which:

A.is beyond the reasonable control of a Party,

b.is unforeseeable

c.is unavoidable,

d.the inability of such party to take the required measures reasonably prior to the conclusion of the contract.

e.the inability of this party to take the required measures or to overcome it reasonably.

f.is not primarily attributable to a Party and makes its performance of its obligations hereunder



impossible or so impractical as reasonably to be considered impossible under the circumstances,

g. As long as the conditions (a, b, c and d) listed above are met, Force Majeure may include, but is not limited to, Incidents or unusual events such as war, hostilities (whether war is declared or not), invasion, foreign aggression, rebellion, terrorism, acts of vandalism, revolution, insurrection, military takeover, civil war, disturbances, riots, disorderly movements, Strikes or blockades by the Consultant's employees, ammunition, explosive materials, ionic radiation, and radiation contamination,

h. Except for what may be attributed to contracting with the Consultant for such ammunition, explosives or radiation, and natural disasters such as earthquakes, hurricanes, storms or volcanic tasks.

### **17.2 Force Majeure shall not include**

A. any event which is caused by the negligence or intentional action of a Party or such Party's Experts, Sub-consultants or agents or employees,

B. any event which a diligent Party could reasonably have been expected when signing the contract and has not taken the necessary measures to prevent it.

17.3 "Force Majeure" shall not include insufficiency of funds or failure to make any payment required hereunder.

### **(b) No Breach of Contract**

17.4 The failure of a Party to fulfill any of its obligations hereunder because of Force Majeure shall not be considered to be a breach of, or default under, this Contract, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

### **(c) Measures to be Taken**



17.5 A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.

17.6 A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fifteen (14) calendar days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.

17.7 Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.

17.8 During the period of their inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the Employer, shall either:

A. demobilize, in which case the Consultant shall be reimbursed for additional costs they reasonably and necessarily incurred, and, if required by the Employer, in reactivating the Services in accordance with the applicable laws; or

B. continue with the Services to the extent reasonably possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred in accordance with the applicable laws.

17.9 In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GCC 44.

## 18. Work Suspension

18.1 The Employer may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension

1. Nature of the consultant's failure, and



2. Requesting the Consultant to remedy such failure within a period not exceeding fifteen (15) calendar days after receipt by the Consultant of such notice of suspension.

## **19. Suspension /Withdrawal /Termination of Contract**

### **Suspension of Contract**

19.1 This Contract may be suspended by either Party as per provisions set up below:

#### **19.1.1 By the Consultant**

The Consultant may suspend this Contract, by not less than thirty (30) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

K. If the Employer fails to pay any money due to the Consultant pursuant to this Contract within forty (40) calendar days after receiving written notice from the Consultant that such payment is overdue, provided that such amounts are not a subject of a dispute between the Parties.

L.If the Employer fails to comply with any final decision reached as a result of arbitration pursuant to Clause GCC 44. In case of thirty days from the date of suspension of execution, Clause GCC 19.1.2 (d) shall be observed.

#### **19.1.2 Suspension of contract execution by the Employer**

The Employer may suspend the execution of the Contract for a period specified by the Employer under a written notice sent to the Consultant for justified reasons.

### **Withdrawal of Work**

19.2 The Employer may withdraw the work from the Consultant, by not less than thirty (30) calendar days' written notice to Consultant, in case of the occurrence of any of the events specified below:

M.If the Consultant fails to confirm availability of Key Experts as required in Clause GCC 13;

N.If the Consultant fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause GCC 18;





S.If the Consultant becomes (or, if the Consultant consists of more than one entity, if any of its members becomes) insolvent or bankrupt or enter into any agreements with their creditors for relief of debt or take advantage of any law for the benefit of debtors or go into liquidation or receivership whether compulsory or voluntary;

P.If the Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GCC 50;

F.If the Employer determines that the Consultant has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Employer may, after giving fifteen (15) calendar days written notice to the Consultant, withdraw the work from the Consultant.

### **Termination of Contract**

19.3 This Contract may be terminated by either Party as per provisions set up below:

#### **19.3.1 By the Consultant**

The Consultant may terminate this **Contract**, by not less than thirty (30) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

S.If, as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;

Q.If the Consultant fails to comply with any final decision reached as a result of dispute resolution procedures pursuant to Clause GCC 44;

R.If the Employer is in material breach of its obligations pursuant to this Contract and has not remedied the same within the period specified in the SCC, or any other period that may be approved by the Parties.

#### **19.3.2 By the contracting entity**

The contracting entity may terminate this Contract, by not less than twenty-eight (28) calendar days' written notice to Employer, in case of the occurrence of any of the events specified below:

A. If the Employer, in its sole discretion, **decides to terminate this Contract** for the interest of the government.

B. If, because of force majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than sixty (60) calendar days;



#### **19.4 Suspension of Rights and duties**

Upon termination of this Contract pursuant to Clauses GCC 12 or GCC 19 hereof, or upon expiration of this Contract pursuant to Clause GCC 14, all rights and duties of the Parties hereunder shall cease, except

- a. such rights and duties as may have accrued on the date of termination or expiration,
- b. the obligation of confidentiality set forth in Clause GCC 22,
- c. the Consultant's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GCC 25, and
- D. any right which a Party may have under the applicable Iraqi laws.

#### **19.5 Suspension of Services Execution**

Upon termination of this Contract by notice of either Party to the other pursuant to Clause GCC 19, the Consultant shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Consultant and equipment and materials furnished by the Employer, the Consultant shall proceed as provided, respectively, by Clauses GCC 27 and GCC 28.

#### **19.6 Payment upon Suspension, Termination, or Withdrawal of Work**

Upon suspension of execution, termination of this Contract, or withdrawal of work, the Employer shall make the following payments to the Consultant:

- a. remuneration for Services satisfactorily performed prior to the valid date of withdrawal of work, other expenses, provisional sums and contingency for expenditures actually incurred prior to the valid date of withdrawal; and pursuant to Clause GCC 42;
- B. in the case of withdrawal of work pursuant to Clause 19.3, reimbursement of any reasonable cost incidental to the prompt and orderly withdrawal of work, including the cost of the return travel of the Experts in accordance with the applicable Iraqi laws.



## **Third - Duties of the Consultant**

### **20. General**

#### **A.Performance Level**

20.1 The Consultant shall carry out the Services with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and valid equipment, machinery, materials and methods. The Consultant shall always act, in respect of any matter relating to this Contract or to the Services, as a faithful adviser to the Employer, and shall at all times Assistance and safeguard the Employer's legitimate interests in any dealings with the third parties.

20.2 The Consultant shall employ and provide such qualified and experienced Experts and Sub-consultants as are required to carry out the Services.

20.3 The Consultant may subcontract part of the Services to an extent and with such Key Experts and Sub-consultants as may be approved in advance by the Employer. Notwithstanding such approval, the Consultant shall retain full responsibility for the Services. If the Employer does not approve the sub-consultant, the Consultant shall substitute the sub-consultant until the approval of the Employer is obtained.

20.4 General companies (state and public sector) cannot subcontract without the Employer's prior consent in accordance with the applicable laws. This Contract is only for a part of the services..

#### **B.Applicable Law on Services**

20.5 The Consultant shall perform the Services in accordance with the Contract and the Applicable Law and shall take all practicable steps to ensure that any of its Experts and Sub-consultants, comply with the Applicable Iraqi Law.



20.6 During the implementation of the contract, the consultant must aproposale by the embargo practiced by the Republic of Iraq in the matter of importing goods and services according to the following:

(A) applicable legislation or directives that prohibit the employer's country from establishing commercial relations with that country, or

(B)As a result of the act of responding to a decision issued by the United Nations / Security Council under Chapter VII of the United Nations Constitution, according to which the employer country is prohibited from contracting to import any goods from that country, carrying out works or providing services with that country, or paying any price to people or Destinations in that state.

(C)As a result of the consultant's disqualification, the supplier of goods or the outlet of works, based on a decision by the Iraqi official authorities, as a result of involvement in corruption and illegal activities.

20.7 The employer shall inform the consultant in writing the local taxes to be considered and respected by the consultant after the notice of notification.

## **21. Conflict of Interests**

21.1 The consultant must maintain the higher interest of the employer, firmly avoiding conflicts with other tasks or his own business interests and without any considerations for any future business.

### **A.Consultant's non-benefit of Comtasks, Discounts, etc.**

21.1.1 The payment of the Consultant pursuant to Clauses 38 through 42 shall constitute the Consultant's only payment in connection with this Contract and, subject to Clause GCC 21.1.3, the Consultant shall not accept for its own benefit any trade comtask, discount or similar payment in connection with tasks pursuant to this Contract or in the discharge of its obligations hereunder, and the Consultant shall use its best efforts to ensure that any Sub-consultants, as well as the Experts and agents of either of them, similarly shall not receive any such additional payment.



21.1.2 Furthermore, if the Consultant, as part of the Services, has the responsibility of advising the Employer on the procurement of goods, works or services, the Consultant shall not benefit from any discounts or comtasks in the exercise of such procurement responsibility, and they shall be for the account of the Employer.

### **B.Consultant and Affiliates's non correlation with some tasks**

21.1.3 The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, as well as any Sub-consultants and any entity affiliated with such Sub-consultants, shall be disqualified from providing goods, works or non-consulting services resulting from or directly related to the Consultant's Services for the preparation or implementation of the project, unless otherwise indicated in **the SCC**.

### **C.Prohibition of Conflicting Activities**

21.1.4 The Consultant shall not engage, and shall cause its Experts as well as its Sub-consultants not to engage, either directly or indirectly, in any business or professional tasks that would conflict with the tasks assigned to them under this Contract.

### **D.Strict Duty to Disclose Conflicting Activities**

21.1.5 The Consultant has an obligation and shall ensure that its Experts and Sub-consultants shall have an obligation to disclose any situation of actual or potential conflict that influences their capacity to serve the best interest of their Employer. Failure to disclose said situations may lead to the disqualification of the Consultant or the termination of its Contract.

## **22. Confidentiality**

22.1 Except with the prior written consent of the Employer, the Consultant and the Experts shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Consultant and the Experts make public the recommendations formulated in the course of, or as a result of, the Services.

## **23. Liability of the Consultant**



23.1 Subject to additional provisions, if any, set forth in the SCC, the Consultant's liability under this Contract shall be as determined under the Applicable Law.

## **24. Consultant's Insurance**

24.1 The Consultant shall take out and maintain, and shall cause any Sub-consultants to take out and maintain, at its (or the Sub-consultants', as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage specified in **the SCC**, and the Consultant shall ensure that such insurance is in place prior to commencing the Services as stated in Clause GCC 13. At the Employer's request, the Consultant shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums therefore have been paid.

The price of insurance shall be specified in the SCC and no amendments to insurance policies may be made without the prior consent of the Employer.

## **25. Accounting, Inspection and Auditing**

25.1 The Consultant shall keep, and shall make all reasonable efforts to cause its Sub-consultants to keep, accurate and systematic accounts and records in respect of the Services and in such form and detail as will clearly identify relevant time changes and costs. These documents shall be provided to the competent authorities at the request of the Employer to inspect the site and to check the project records in accordance with the applicable Iraqi laws.

## **26. Reports submission**

26.1 The Consultant shall submit to the Employer the reports and documents specified in Appendix A, in the form, in the numbers and within the time periods set forth in the said Appendix.

26.2 In the event of delay in the submission of reports or outputs for a period exceeding the grace period specified in **the SCC**, the Employer may freeze the execution of the services or maintain their continuity provided that delay penalties are deducted from the consultant's account as specified in **the SCC**, Taking into account the Iraqi legislation in force.



## 27. Employer's Copyrights

27.1 All reports and relevant data and information such as maps, diagrams, plans, databases, other documents and software, supporting records or material compiled or prepared by the Consultant for the Employer in the course of the Services shall be confidential and become and remain the absolute property of the Employer. The Consultant shall, not later than upon termination or expiration of this Contract, deliver all such documents to the Employer. The Consultant may retain a copy of such documents, data and/or software but shall not use the same for purposes unrelated to this Contract without prior written approval of the Employer.

27.2 This Clause excludes software rights and licensing agreements between the consultant and other parties where they shall be specified in **the SCC** according to the required service.

## 28. Equipment, Vehicles and Materials

28.1 Equipment, vehicles and materials made available to the Consultant by the Employer, or purchased by the Consultant wholly or partly with funds provided by the Employer, shall be the property of the Employer and shall be marked accordingly.

Upon termination or expiration of this Contract, the Consultant shall make available to the Employer an inventory of such equipment, vehicles and materials and shall dispose of such equipment, vehicles and materials in accordance with the Employer's instructions. While in possession of such equipment, vehicles and materials, the Consultant, unless otherwise instructed by the Employer in writing, shall insure them at the expense of the Employer in an amount equal to their full replacement value.

28.2 Any equipment or materials brought by the Consultant or its Experts into the Employer's country for the use either for the project or personal use shall remain the property of the Consultant or the Experts concerned, as applicable.



## **Fourth – Consultant and Sub-Consultants Experts**

### **29. Description of Key Experts**

29.1 The title, agreed job description, minimum qualification and estimated period of engagement to carry out the Services of each of the Consultant's Key Experts are described in Appendix B.

### **30. Replacement of Key Experts**

30.1 Except as the Employer may otherwise agree in writing, no changes shall be made in the Key Experts.

30.2 Notwithstanding the above, the substitution of Key Experts during Contract execution may be considered only based on the Consultant's written request and due to circumstances outside the reasonable control of the Consultant, including but not limited to death or medical incapacity. In such case, the Consultant shall forthwith provide a replacement, a person of equivalent or better qualifications and experience, and at the same rate of remuneration.

### **31. Suspension of key experts or sub-consultants from work**

31.1 If the Employer finds that any of the Experts or Sub-consultant has committed serious misconduct or has been charged with having committed a criminal action, or shall the Employer determine that Consultant's Expert or Sub-consultant have engaged in corrupt, fraudulent, collusive, coercive or obstructive practice while performing the Services, the Consultant shall, at the Employer's written request, provide a replacement.

31.2 In the event that any of Key Experts, Non-Key Experts or Sub-consultants is found by the Employer to be incompetent or incapable in discharging assigned duties, the Employer, specifying the grounds therefore, may request the Consultant to provide a replacement.

31.3 Any replacement of the removed Experts or Sub-consultants shall possess better qualifications and experience and shall be acceptable to the Employer.





31.4 Unless otherwise specified in the conditions of the Contract, the Consultant shall bear all costs arising out of or incidental to any deportation and/or replacement of such Experts. The remuneration to be paid for any of the Experts provided as a replacement shall not exceed the remuneration which would have been payable to the Experts replaced or removed.

## **Fifth - Duties of the Employer**

### **32. Assistance and Exemptions**

32.1 Unless otherwise specified in the SCC, the Employer shall use its best efforts to:

(A) Assist the Consultant with obtaining work permits and such other documents as shall be necessary to enable the Consultant to perform the Services.

(B) Assist the Consultant with promptly obtaining, for the Experts and, if appropriate, their eligible dependents, all necessary entry and exit visas, residence permits, exchange permits and any other documents required for their stay in Iraq while carrying out the Services under the Contract.

(C) Facilitate prompt clearance through customs of any property required for the Services and of the personal effects of the Experts and their eligible dependents.

(D) Provide to the Consultant any such other assistance as may be specified in the SCC.

### **33. Access to Project Site**

33.1 The Employer warrants that the Consultant shall have, free of charge, unimpeded access to the project site in respect of which access is required for the performance of the Services. The Employer will be responsible for any damage to the project site or any property thereon resulting from such access and will indemnify the Consultant and each of the experts in respect of liability for any such damage, unless such damage is caused by the willful default or negligence of the Consultant or any Sub-consultants or the Experts of either of them.

### **34. Change in the Applicable Law Related to Taxes and Fees**

34.1 If, after twenty-eight (28) days prior to the Proposal Submission Deadline, there is any change in the applicable law with respect to taxes and duties which increases or decreases the cost incurred by the Consultant in performing the Services, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GCC 38.1.



### **35. Services, Facilities and Property of the Employer**

35.1 The Employer shall make available to the Consultant and the Experts, for the purposes of the Services and free of any charge, the services, facilities and property described in the Terms of Reference (Appendix A) at the times and in the manner specified in said Appendix A.

35.2 In case that such services, facilities and property shall not be made available to the Consultant as and when specified in Appendix A, the Parties shall agree on (a) any time extension that it may be appropriate to grant to the Consultant for the performance of the Services, (b) the manner in which the Consultant shall procure any such services, facilities and property from other sources, and (c) the additional payments, if any, to be made to the Consultant as a result thereof pursuant to Clause GCC 38.3.

### **36. Counterpart Personnel (Employer's Personnel)**

36.1 The Employer shall make available to the Consultant free of charge such professional and Assistance counterpart personnel, to be nominated by the Employer with the Consultant's advice, if specified in Appendix A.

36.2 Professional and Assistance counterpart personnel, excluding Employer's liaison personnel, shall work under the exclusive direction of the Consultant. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Consultant that is consistent with the position occupied by such member, the Consultant may request the replacement of such member, and the Employer shall not unreasonably refuse to act upon such request.

### **37. Payments**

37.1 In view of the services performed by the consultant under the contract, the employer undertakes to pay the consultant the due dues against the outputs specified in Appendix A and in the manner specified in "Sixth" below.



## Sixth - Payments to the Consultant

### 38. Contract Price

38.1 The Contract price is set forth in the SCC and detailed in Appendix C.

38.2 In case of any amendment to the Contract price specified in Clause 38.1, then the Parties shall agree to amend the description of services in Annex A and amend the Contract in writing in accordance with GCC 16.

### 39. Taxes

39.1 The Consultant, Sub-consultants and Experts are responsible for meeting any and all tax liabilities arising out of the Contract unless it is stated otherwise in **the SCC** and in accordance with the applicable law.

39.2 As an exception to the above and as stated in Clause SCC 39.1, all local identifiable indirect taxes itemized and finalized at Contract negotiations are reimbursed to the Consultant in accordance with applicable regulations.

### 40. Currency

40.1 Any payment under this Contract shall be made in the currency specified in **the SCC**.

### 41. Advances, Credit and Payment Method

41.1 The price of the total payments under the Contract shall not exceed the Contract price specified in Clause 38.1.

41.2 Payments are made in lump sum amounts paid upon the submission of predefined outputs in Appendix A. Payment shall be made in accordance with the Table of Payments specified in **the SCC**:

*A. Advance payment.* Within a period of (29) days after the date of award, the Employer shall pay to the Consultant an advance payment as specified in **the SCC**. An advance payment shall be made against an advance payment bank guarantee acceptable in Iraq according to the official bulletin issued by the Central Bank of Iraq in an amount (or amounts) and in a currency (or



currencies) specified in **the SCC**. The guarantee shall be irrevocable and payable in cash, immediately without any restriction or condition, and at the first claim of the Employer. If the guarantee is issued by a bank outside the Employer's country, then the bank shall have an approved financial institution within the Employer's country in order for the guarantee to become valid. Such guarantee (a) is to remain valid until the advance payment has been fully set off, and (b) is to be in the form set forth in Appendix **E**, or in such other form as the Employer shall have approved in writing in accordance with the applicable laws. In all cases, the guarantee form shall be sent to the Employer including reference, Contract address and full Consultant. The price of the guarantee can be reduced by payments made by the Employer and becomes null and void when the full prepayment price is paid to the Employer. The guarantee shall be returned to the Consultant immediately after its expiry.

**B. Total Payments:** The Employer shall pay the Consultant within a period specified in the special conditions of the contract after the Employer receives the related outputs and invoices. The payment can be retained if the Employer does not agree with the reports or outputs submitted. In this case, the Employer shall provide written comments on the reports within sixty (60) days to the Consultant, who will in turn make the necessary corrections and re-submission of the outputs and related invoices.

**C. The Final Payment** .The final payment under this Clause shall be made within (90) days after the final report and a final invoice, identified as such, shall have been submitted by the Consultant and approved as satisfactory by the Employer. The Services shall be deemed completed and finally accepted by the Employer and the final report and final invoice shall be deemed approved by the Employer as satisfactory unless the Employer gives written notice to the Consultant specifying in detail deficiencies in the Services, the final report or final invoice. The Consultant shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount that the Employer has paid or has caused to be paid in accordance with this Clause in excess of the amounts payable in accordance with the provisions of this Contract shall be reimbursed by the Consultant to the Employer within thirty (30) days after receipt by the Consultant of notice thereof. Any such claim by the Employer for reimbursement shall be made within twelve (12) calendar months after receipt by the Employer of a final report and a final invoice approved by the Employer in accordance with the above.



D. All payments under this Contract shall be made to the accounts of the Consultant specified in the SCC.

E. With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Consultant of any obligations hereunder.

#### **42. Delayed Payments**

42.1 If the Employer had delayed payments beyond thirty (30) days after the due date stated in Clause GCC 37.2, the Parties shall agree to resolve the matter satisfactorily and as specified in the SCC.

### **Seventh - Equality and good faith**

#### **43. Good faith**

43.1 The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.

### **Eighth – Claims, Disputes and Contractual Disputes Resolution**

#### **44. Claims, Disputes and Contractual Disputes Resolution**

44.1 The mechanism provided for in the special conditions of the contract shall be adopted to determine and consider the procedures for submission of claims by the Employer.

44.2 The mechanism stipulated in the Implementing Regulations of the applicable government contracts shall be based on the determination of the method for resolving the contractual disputes in the SCC.



<b>Special Conditions of Contract (SCC)</b>	
<b>Number of ITC Clause</b>	<b>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</b>
<b>First – General</b>	
3,1	The Contract shall be construed in accordance with the provisions of the applicable Iraqi laws regarding public contracts and the instructions of the Ministry of Planning (Department of General Government Contracts)
4,1	The controlling language of Contract is <i>[insert language]</i>
6,1 and 6,2	<p>Titles for delivering notifications are the following:</p> <p><b>Employer:</b>            Attention: <i>[insert the name of the employee in charge]</i>            Phone: _____ Fax: _____            E-mail: _____</p> <p><b>Consultant:</b>            Attention: <i>[insert the name of the officer in charge]</i>            Phone: _____ Fax: _____            E-mail: _____</p>
8,1	<p><i>[If the Consultant consists only of one entity, state “N/A”; OR If the Consultant is a Joint Venture consisting of more than one entity, insert the name of the JV. ]</i></p> <p>The Lead Member on behalf of the JV is: <i>[insert the name the lead member]</i></p> <p><i>[If Consultants are individuals, state “N/A”]</i></p>
9,1	<p>The Authorized Representatives are:</p> <p>For the Employer: <i>[insert the name of the authorized representative (under official authorization)]</i></p> <p>For the Consultant: <i>[insert the name of the authorized representative (under official authorization or proxy certified by the official authorities)]</i></p>
<b>Second - Validity of Contract, Commencement of Execution, Completion of Work, Amendment and Suspension of Execution/ Withdrawal of Work/Termination of Contract</b>	
11, 1	The date on which this Contract shall come into effect is: <i>[insert the conditions of validity of contract]</i>



Number of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	[if there are no special conditions, write "N/A"]
12,1	Termination of Contract for Failure to Become Valid: The time period shall be [insert time period, e.g.: three months] after signing the Contract.
13,1	The date for the commencement of Services is [insert time period, e.g.: three weeks] after the date of its validity.
14,1	The Contract Completion Date is [insert date].
19,1,1	Suspension of the Contract by the Consultant. [insert (applicable, not applicable)]
19,2 (p)	The period of tackling the failure of the Employer shall be [insert time period, e.g.: eight weeks]
19,3,1	contract termination by the consultant, insert (Applicable/ <b>Not Applicable</b> )
<b>Third – Duties of Consultant</b>	
21,1,3	The Employer [reserves or does not reserve] the right to determine on a case-by-case basis whether the Consultant shall be disqualified from providing goods, works or non-consulting services due to a conflict of interests.
23,1	[No additional provisions or the following provisions are binding on determining the consultant's liability...]
24,1 or 24,2	The insurance coverage against the risks shall be as follows: (A) Professional liability insurance, with a minimum coverage of [insert amount and currency] which shall be not less than the total ceiling amount of the Contract; (B) Third Party motor vehicle [insert amount and currency] which should not be below the ceiling specified by the applicable laws; (C) Third Party liability insurance [insert amount and currency] which should not be below the ceiling specified by the applicable laws; (D) Employer's liability and workers' compensation insurance in respect of the experts and Sub-consultants in accordance with the applicable law until [insert amount and currency] with respect to such Experts, any such life, health, accident, travel or other insurance as may be appropriate; and



Number of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	(E) Insurance against loss of or damage to the Consultant's property and documents [insert amount and currency] which are used to implement services in accordance with the contract.
26,2	The grace period for each of the reports or outputs is: [specify grace period(s)]. The value of the delay penalties shall be: [specify the value of the delay penalty / reduction of the delay penalty].
27,2	If there is to be no restriction on the future use of these documents/software by either Party, this Clause SCC 27.2 shall be deleted. If the Parties wish to restrict such use, any of the following options could be used: (A)The Consultant shall not use these [insert what applies....documents and software] for purposes unrelated to this Contract without the prior written approval of the Employer. Or (B)The Employer shall not use these [insert what applies....documents and software] for purposes unrelated to this Contract without the prior written approval of the Consultant. (C)Neither Party shall use these [insert what applies....documents and software] for purposes unrelated to this Contract without the prior written approval of the other Party.
<b>Fifth – Duties of Employer</b>	
32,1 (d)	[The Employer shall provide the Consultant with the following support:....]
34	in case of the occurrence of any change at the laws in force, related to the fees and taxes after 28 days before the date of bids closure, ( the fees allowance and the price of recoverable expenses that are due for the consultants shall or shall not be amended)
<b>Sixth – Payment to Consultant</b>	
38,1	The Total price of the Contract is: [insert amount and currency] [indicate:” inclusive” or “exclusive”] of local indirect taxes.
39,1	Indirect taxes resulting from this Contract will be [paid or not paid] by the Employer to the Consultant in accordance with applicable laws.





Number of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>The cost of the indirect taxes resulting from this Contract is <i>[insert the cost]</i>.</p> <p>Tax exemptions for consultants are:</p> <p>Foreign Consultants are (exempted, not exempted) from income tax, Iraq reconstruction taxes and other applicable taxes if the Contract is for development projects and is only on the Development Program list.</p>
40,1	<p>The currency [currencies] of payment shall be the following: <i>[insert currency(ies) which shall be the same as in the Financial Proposal]</i></p>
41,2	<p>The total Contract payments are as follows:</p> <p>The first payment <i>[insert the price in foreign currency and in the local currency and the percentage of the price of the payment of the total price]</i> and shall be paid within <i>[insert the number of days]</i> days after the validity of the contract against a bank guarantee with a value of <i>[insert the price in foreign currency and in local currency]</i> according to the instructions of budget execution .</p> <p>The second payment <i>[insert the price in foreign currency and in the local currency and the percentage of the price of the payment of the total price]</i></p> <p>The third payment <i>[insert the price in foreign currency and in local currency and the proportion of the price of the payment of the total price]</i></p> <p>The last payment <i>[insert the price in foreign currency and in local currency and the percentage of the price of the payment of the total price]</i></p>
41,2,2	<p>Invoices shall be paid within a period of <i>[insert the number of days]</i> days after the outputs are received and approved by the Employer.</p>
41,2,3	<p>The Consultant's accounts are:</p> <p>For foreign currency: <i>[insert account]</i>.</p> <p>For local currency: <i>[insert account]</i>.</p>



Number of ITC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
42,1	Disputes regarding delayed payments shall be settled by [ <i>state the means to be used to address the delay in payment: pledging the Contract's financial dues to the Employer's account, delaying work, extending the Contract periods or "N/A"</i> ]
44,1	Method of dispute resolution between Parties shall be on the basis of [ <i>insert the dispute resolution mechanism</i> ]



## **Appendices of Contract**

### **APPENDIX A – SERVICES DESCRIPTION**

This appendix includes the final terms of reference that the consultant and the employer have agreed upon during the negotiation period and which have been called a "service description".

### **APPENDIX B - KEY EXPERTS**

This appendix includes a copy of the technical form-6 as agreed between the consultant and the employer during the negotiations period.



## APPENDIX C – BREAKDOWN OF CONTRACT PRICE

This Appendix shall include amended Form FIN-3 of the Consultant's Proposal and reflect any changes agreed at the Contract negotiations, if any. The footnote shall list such changes made to Form FIN-3 at the negotiations or state that none has been made.

If the Consultant is selected according to Quality-Cost-Based Selection QQBS or if the Employer asks the consultant for a detailed cost during the negotiation period, the following shall be added:

"The agreed remuneration shall be stipulated in Annex C-1 which will be submitted on the basis of the Annex 3 Financial Form submitted by the Consultant to the Employer prior to the negotiation period."

If the information contained in this Appendix is found to be incorrect, the Employer may amend the remunerations, which are found to be incomplete or inaccurate. This amendment shall be applied throughout the contract period retroactively if checking is made after several payments given by the Employer to the Consultant.



## APPENDIX D - FORM OF ADVANCE PAYMENTS GUARANTEE

### Bank Guarantee for Advance Payment

[insert **commercial Bank's Name, address of Issuing Branch or Office**]

**Beneficiary:** [name and address of the contracting entity]

**Date:** [insert date]

**ADVANCE PAYMENT GUARANTEE No.:** [insert advance payment guarantee No.]

We have been informed that [ insert *name of Consultant or a name of the Joint Venture, same as appears on the signed Contract*] (hereinafter called "the Consultant") has entered into Contract No. [ insert reference number of the contract] dated [insert date] with the Beneficiary, for the provision of [brief description of Services] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum of [*insert amount in figures*] [ insert amount in words] is to be made against an advance payment guarantee.

At the request of the Consultant, we [ insert name of bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert currency] [insert amount in figures] [insert currency and amount in words] upon receipt by us of your first demand in writing accompanied by a written statement stating that the Consultant are in breach of their obligation under the Contract because the Consultant have used the advance payment for purposes other than toward providing the Services under the Contract.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above shall have been received by the Consultant on their account number [insert account number] at [insert name and address of bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Consultant as indicated in certified statements or invoices marked as "paid" by the Employer which shall be presented to us.



This guarantee shall expire, at the latest, upon our receipt of the payment certificate or paid invoice indicating that the Consultant has made full repayment of the amount of the advance payment on [insert date]. Consequently, any demand for payment under this guarantee shall be received by us at this office on or before that date.

**[signature(s)]**



## APPENDIX E - FORM OF AWARD LETTER

[insert: place and date]

[insert: Selected Consultant Name]

We would like to inform you that your proposal, dated [insert proposal date], whose subject is execution of services [insert a brief description of the services] at [insert the price of the contract], made after the corrections and amendments as per the instructions to consultants, has been accepted by us.

Signature

Name and position of the officer in charge [insert the contracting entity / person authorized by Employer]

Contracting entity / Employer [*insert Contracting entity / Employer*]

Attached: Contract Agreement



## (Statement of Interest Request Form)

Tender Number: (Enter Tender Number)

Contracting Entity: (Enter the contracting entity's name)

Subject/ Request for Statement of Interest [Brief description of the several lines of mission]

1- The contracting entity referred to above wishes to invite you to submit a request for a statement of interest for the aforementioned task.

2- This advisory mission will be funded } Enter the budget within which the project is included {according to the selection method (mention the name of the selection method)

3- If you wish to participate in this mission, please kindly submit a request for a statement of interest in this advisory mission specifying your qualifications that enable you to carry out this mission, and provide the information shown below:

A- An introduction to the bidder, which includes:

- The name and the brief biography of the company.

-Its field of expertise.

-Registration and accreditation documents.

B- Description of previous experience in implementing similar projects.

C- Technical qualifications.

D - Experience in implementing projects in the Republic of Iraq (if any).

E - Experience in implementing projects in the Middle East region (if any) during the past five years.

F - Availability of the appropriate terms of reference for the staff of the bidder - the CV of the cadre - the organizational structure and the applicant staff of the bidder

J- A brochure explaining the company's various departments and activities.

K- Any certificates of appreciation granted to the company.

L- Any other information you wish to provide to prove the company's eligibility for this task.

M - Consultants must be from an eligible country.

4- The contracting entity has the right to enter the name of the contracting entity {to ask the bidders to attend to provide an explanation and clarification of the company's qualifications and capabilities to implement such a task.

5- The contracting authority} Enter the name of the contracting entity {will choose the best qualified and most experienced consultant, based on the data of interest provided and request submitting a proposal that includes the technical and financial aspects regarding the assignment

6- The contracting entity has the right to enter the name of the contracting entity {negotiate the technical and financial proposal submitted.

7- The data of interest must be submitted to the following address:

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

Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_





Republic of Iraq

8- In case of any inquiries, they shall be sent no later than (Enter the date { at the address}). Enter the address of the formation concerned with receiving the inquiries) (Signature )

(Enter the name and position of the authorized representative of the contracting party)