



Government of Jamaica

STANDARD BIDDING DOCUMENTS

Clarendon Parish Court (Frankfield) - Refurbishing Works

August 2018

Acronyms

BDS	Bid Data Sheet
CFR	Cost and Freight
CIF	Cost, Insurance and Freight
CIP	Carriage and Insurance Paid to (<i>named place of destination</i>)
CPM	Critical Path Method
CPT	Carriage Paid to
CV	Curriculum Vitae
DAF	Delivery at Frontier
DDP	Delivered Duty Paid (<i>named place of destination</i>)
DDU	Delivered Duty Unpaid
DES	Delivered Ex Ship
DEQ	Delivered Ex Quay
EXW	Ex factory, ex works or ex warehouse
FAS	Free alongside Ship
FCA	Free Carrier
FIDIC	Fédération Internationale des Ingénieurs Conseils (International Federation of Consulting Engineers)
FOB	Free on Board
GCC	General Conditions of Contract
GOJ	Government of Jamaica
ICC	International Chamber of Commerce
IFB	Invitation for Bids
ITB	Instructions to Bidders
OT	Open Tender
SBD	Standard Bidding Document
SCC	Special Conditions of Contract
TS	Technical Specifications and Drawings
UNCITRAL	United Nations Commission on International Trade Law
UNDP	United Nation Development Programme

Glossary

Procuring Entity	One of the two parties to a works contract, the other party being the “Contractor.”
Contractor	The legal entity that is party to and performs a works contract, the other party to the contract being the “Procuring Entity.”
joint venture	An ad hoc association of firms that pool their resources and skills to undertake a large or complex contract in the role of “Contractor,” with all firms (partners in the JV) being legally liable, jointly and severally, for the execution of the contract in the event of a partner’s withdrawal.
management contractor	A firm, acting in the role of “Contractor,” that does not normally perform contract construction work directly, but manages the work of other (sub) contractors, while bearing full responsibility and risk for price, quality, and timely performance of the work contract.
construction manager	A consultant, acting as agent of the Procuring Entity, engaged to coordinate and monitor the timing of preparation, bidding award, and execution of a number of different contracts comprising a project, but does not take on the responsibility for price, quality, or performance of those contracts.
nominated	A specialist enterprise selected and approved by the Procuring Entity to
subcontractor	Provide pre-specified works included in the Bill of Quantities and nominated as subcontractor to the main Contractor for such purpose.
Post-qualification	An assessment made by the Procuring Entity after the evaluation of bids and immediately prior to award of contract, to ensure that the lowest responsive, Bidder is qualified to perform the contract in accordance with previously specified prequalification requirements.
prequalification	An assessment made by the Procuring Entity before inviting bids, of the appropriate level of experience and capacity of firms expressing interest in undertaking a particular contract, before inviting them to bid.
prime contractor	A firm that performs a substantial part of a contract

construction work itself and the balance, if any, by subcontractors, while bearing full responsibility for the whole contract.

provisional sum A sum included provisionally in the Bill of Quantities of a contract, normally for a specialized part of the Works or for contingencies, which sum shall be used only on the instructions of the Procuring Entity/Engineer for payments to the contractor and/or to nominated subcontractors.

slice and A procedure whereby a large homogeneous project is sliced into smaller similar contracts, which are bid simultaneously so as to attract the interest of both small and large firms; firms offer bids on individual contracts (slices) or on a group of similar contracts (packages), and award is made to the combination of bids offering the lowest cost to the Procuring Entity. Slices comprising a number of similar construction units together in a small area are sometimes referred to as “lots,” which are bid concurrently with other similar “lots” as part of the larger “package.”

turnover The gross earnings of a firm (in this context, a construction contractor), defined as the billings for contract work in progress and/or completed, normally expressed on an annual basis, and excluding income from other sources.

Works The total work involvement in a construction contract, including the “Permanent” Works or finished product as specified, and the “Temporary” Works required in by the Contractor for the execution and completion of the contract.

In writing For the purpose of this document, means authenticated handwritten, typed, or printed; a document prepared in writing can be transmitted by telex, electronic mail, facsimile, with proof of receipt; and in the form requested by the sender.

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Invitation for Bids (IFB)

Contract/Bid No. MOJ/CPCFRW/2018/8

1. *The Ministry of Justice (MOJ)* now invites sealed bids from eligible and qualified bidders for internal and external painting, purchase and installation of UPVC windows. Refurbishing will also include plumbing and masonry works as well as electrical upgrade, floors, doors and roof repairs of Clarendon Parish Court (Frankfield). *The duration of the project is three (3) months.*
2. Bidders must possess a valid Tax Compliance Certificate and must be registered with the National Contracts Commission (Grade 3) at the time of bid submission in order to participate.
3. Bidders are advised to pay keen attention to the **Bidding Data Sheet** found inside the tender documents, as well as the Compliance Checklist in order to ensure that they submit all of the required information/documentation stipulated therein. Failure to submit required information will impact upon the evaluation of a bidder's submission.
4. **A mandatory site visit will be held on Monday, August 27, 2018, 1:00 PM at Clarendon Parish Court (Frankfield).**
5. Interested eligible bidders may obtain further information from Triston Aiken, Ministry of Justice, triston.aiken@moj.gov.jm. Bidding Documents will be made available on our website commencing Friday, August 17, 2018.
6. Bids shall be valid for a period of 90 days after bid closing and shall be deposited in the tender box marked "**Clarendon Parish Court (Frankfield) - Refurbishing Works**", located at *the Procurement Unit, (Block A, Ground Floor)* of the *Ministry of Justice (61 Constant Spring Road, Kingston 10)* on or before **September 7, 2018 at 10:00 AM**. Late Bids will be rejected.
7. Bids will be opened at **10:10 AM on September 7, 2018** in the presence of the bidders' representatives who choose to attend in person at the Ministry of Justice, *61 Constant Spring Road, Kingston 10.*

Section I. Instructions to Bidders

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Instructions to Bidders (ITB)

A. General

- | | |
|---|---|
| <p>1.
Scope
of Bid</p> | <p>1.1 The Procuring Entity as defined in Section II “Bidding Data Sheet” (BDS), invites bids for the construction of Works, as described in the BDS and Section V, “Special Conditions of Contract” (SCC). The name and identification number of the Contract are provided in the BDS and the SCC.</p> <p>1.2 The successful Bidder shall be expected to complete the Works by the Intended Completion Date specified in the BDS and SCC 1.1 (r).</p> <p>1.3 Throughout these Bidding Documents:</p> <p>(a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex,) with proof of receipt;</p> <p>(b) if the context so requires, “singular” means “plural” and vice versa; and</p> <p>(c) “day” means calendar day.</p> |
| <p>2.
Source of
Funds</p> | <p>2.1 The Procuring Entity has committed funds toward the cost of the project and intends to apply a portion of the funds to eligible payments under the contract;</p> |
| <p>3.
Fraud and
Corruption</p> | <p>3.1 Government of Jamaica requires that Bidders, Suppliers, Contractors, and Consultants, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuit of this policy, GOJ:</p> <p>(a) defines, for the purposes of this provision, the terms set forth below as follows:</p> <p>(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract</p> |

execution;

- (ii) “fraudulent practice” means a misrepresentation or omission of facts in order to influence a procurement process or the execution of a contract to the detriment of Government of Jamaica and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive Government of the benefits of free and open competition;
 - (iii) “collusive practice” means a scheme or arrangement between two or more bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract; and
 - (iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for the Contract in question;**
- (c) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a GOJ-financed contract if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a GOJ-financed contract; and**

- (d) will have the right to require that a provision be included in Bidding Documents and in contracts financed by a GOJ, requiring bidders, suppliers, contractors and consultants to permit GOJ to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the GOJ.

4. Eligible Bidders

- 4.1 A Bidder, and all parties constituting the Bidder, may have the nationality of any country. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors.
- 4.2 A Bidder shall not have a conflict of interest. All Bidders found to have conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if they are associated, or has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Procuring Entity to provide consulting services for the preparation or supervision of the Works, and any of its affiliates shall not be eligible to bid.
- 4.3 In accordance with the Government of Jamaica Handbook of Public Sector Procurement Procedures March 2014 (<http://www.mof.gov.jm>) the Bidder shall have to demonstrate that they have paid such taxes, duties, fees and other impositions as may be levied in Jamaica.
- 4.4 Where deemed necessary, the bidders should be registered with the National Contracts Commission “Registry of Public Sector Contractors” (<http://www.ocg.gov.jm>).

5. 5.1 All bidders shall provide in Section III, “Form of Bid,

Qualifications of the Bidder

Qualification Information, Letter of Acceptance, and Agreement,” a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.

- 5.2 In the event that prequalification of potential bidders has been undertaken, only bids from pre-qualified bidders shall be considered for award of Contract. These qualified bidders should submit with their bids any information updating their original prequalification applications or, alternatively, confirm in their bids that the originally submitted prequalification information remains essentially correct as of the date of bid submission. The update or confirmation should be provided in Section III.
- 5.3 If the Procuring Entity has not undertaken prequalification of potential bidders, all bidders shall include the following information and documents with their bids in Section III, unless otherwise **stated in the BDS**:
 - (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business of the Bidder; written power of attorney of the signatory of the Bid to commit the Bidder;
 - (b) total monetary value of construction works performed for each of the last five years;
 - (c) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts;
 - (d) major items of construction equipment proposed to carry out the Contract;
 - (e) qualifications and experience of key site management and technical personnel proposed for the Contract;
 - (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor’s reports for the past five years;
 - (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and

- availability of other financial resources);
- (h) authority to seek references from the Bidder's bankers;
 - (i) information regarding any litigation, current or during the last five years, in which the Bidder was/is involved, the parties concerned, and the disputed amounts; and awards; [*N.B. The Procuring Entity reserves the right not to award a contract to any party with whom it is currently in litigation or with whom it has been previously involved in litigation*];
 - (j) proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price. The ceiling for sub contractor's participation is **stated in the BDS.**
- 5.4 Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise **stated in the BDS**:
- (a) the Bid shall include all the information listed in ITB Sub-Clause 5.3 above for each joint venture partner;
 - (b) the Bid shall be signed so as to be legally binding on all partners;
 - (c) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (d) one of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
 - (f) a copy of the Joint venture Agreement entered into by the partners shall be submitted with the bid; or a Letter of Intent to execute a joint venture agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the

proposed Agreement.

5.5 To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria

- (a) an average annual financial amount of construction work over the period specified in the **BDS** of at least the multiple indicated in the **BDS**
- (b) experience as prime contractor in the construction of at least the number of works of a nature and complexity equivalent to the Works over the period **specified in the BDS** (to comply with this requirement, works cited should be at least 70 percent complete);
- (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment **listed in the BDS**;
- (d) a Contract Manager with five years' experience in works of an equivalent nature and volume, including no less than three years as Manager; and
- (e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount **specified in the BDS**.

A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

5.6 The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub-Clauses 5.5 (a) and (e); however, for a joint venture to qualify, each of its partners must meet at least 25 percent of minimum criteria of ITB Sub-Clauses 5.5 (a), (b), and (e) for an individual Bidder, and the partner in charge at least 40 percent of those minimum criteria. Failure to comply with this requirement shall result in rejection of the joint venture's Bid. Subcontractors' experiences and resources shall not be taken into account in determining the Bidder's compliance with the

qualifying criteria, unless otherwise **stated in the BDS.**

**6.
One Bid per
Bidder**

6.1 Each Bidder shall submit only one Bid, either individually or as a partner in a joint venture. A Bidder who submits or participates in more than one Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) shall cause all the proposals with the Bidder's participation to be disqualified.

**7.
Cost of Bidding**

7.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Procuring Entity shall in no case be responsible or liable for those costs.

**8.
Site Visit**

8.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense.

B. Bidding Documents

**9.
Contents of
Bidding
Documents**

9.1 The set of Bidding Documents comprises the documents listed in the table below and addenda issued in accordance with ITB Clause 11:

Invitation for Bids

Section I Instructions to Bidders

Section II Bidding Data Sheet

Section III Forms of Bid, Qualification Information, Letter of acceptance, Agreement

Section IV General Conditions of Contract

Section V Special Conditions of Contract

Section VI Specifications

Section VII Drawings

Section VIII Bill of Quantities

Section IX Forms of Securities

**10.
Clarification
of Bidding
Documents**

10.1 A prospective Bidder requiring any clarification of the Bidding Documents may notify the Procuring Entity in writing at the Procuring Entity's address indicated in the BDS. The Procuring Entity shall respond to any request for clarification received earlier than four (4) days prior to the deadline for submission of bids. Copies of the Procuring Entity's response shall be forwarded to all purchasers of the Bidding Documents, including a description of the inquiry, but without identifying its source.

**11.
Amendment of
Bidding
Documents**

11.1 Before the deadline for submission of bids, the Procuring Entity may modify the Bidding Documents by issuing addenda.

11.2 Any addendum thus issued shall be part of the Bidding Documents and shall be communicated in writing to all purchasers of the Bidding Documents.

Prospective bidders shall acknowledge receipt of each addendum in writing to the Procuring Entity.

11.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Procuring Entity shall extend, as necessary, the deadline for submission of bids, in accordance with ITB Sub-Clause 21.2 below.

C. Preparation of Bids

**12.
Language of
Bid**

12.1 All documents relating to the Bid shall be in the language specified in the BDS.

**13.
Documents
Comprising
the Bid**

13.1 The Bid submitted by the Bidder shall comprise the following:

- (a) The Bid (in the format indicated in Section III);
- (b) Bid Security in accordance with ITB Clause 17, if required;
- (c) priced Bill of Quantities;
- (d) Qualification Information Form and Documents;

(e) Alternative offers where invited;

and any other materials required to be completed and submitted by bidders, as **specified in the BDS**.

**14.
Bid Prices**

14.1 The Contract shall be for the whole Works, as described in ITB Sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Bidder.

14.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Bidder shall not be paid for by the Procuring Entity when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities. Corrections, if any, shall be made by crossing out, initialing, dating and rewriting.

14.3 All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 days prior to the deadline for submission of bids, shall be included in the rates, prices, and total Bid price submitted by the Bidder.

14.4 The rates and prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract if **provided for in the BDS** and SCC and the provisions of Clause 47 of the General Conditions of Contract. The Bidder shall submit with the Bid all the information required under the Special Conditions of Contract and GCC Clause 47.

**15.
Currencies of
Bid and
Payment**

15.1 The currency of the bid shall be, **as specified in the BDS**.

15.2 Bidders may be required by the Procuring Entity to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices, **if required in the BDS**, are reasonable and responsive to ITB Sub-Clause 15.1.

**16.
Bid Validity**

16.1 Bids shall remain valid for the period **specified in the BDS**.

16.2 In exceptional circumstances, the Procuring Entity may request that the bidders extend the period of validity for a specified additional period. The request and the bidders' responses shall be made in writing. If a Bid Security is requested in accordance

with ITB Clause 17. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request shall not be required or permitted to modify its Bid, except as provided in ITB Clause 17.

17. Bid Security

17.1 If required in the BDS, the Bidder shall furnish as part of its Bid, a Bid Security in original form as specified in the BDS.

17.2 The bid security shall be a demand guarantee at the Bidder's option, in any of the following forms:

- (a) an unconditional bank guarantee;
- (b) an irrevocable letter of credit;
- (c) a cashier's or certified check; or
- (d) another security indicated in the BDS,

17.3 If a Bid Security is required in accordance with ITB Sub-Clause 17.1, any bid not accompanied by a Bid Security in accordance with ITB Sub-Clause 17.1, shall be rejected by the Procuring Entity as non-responsive.

17.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing of the performance security.

17.5 The Bid Security may be forfeited:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB Sub-Clause 16.2; or
- (b) if the Bidder does not accept the correction of its Bid Price pursuant to ITB Sub-Clause 28.
- (c) if the successful Bidder fails within the specified time to:
 - (i) sign the Contract; or
 - (ii) furnish the required performance security.

17.6 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security

shall be in the names of all future partners as named in the letter of intent.

**18.
Alternative
Proposals by
Bidders**

- 18.1 Alternatives shall not be considered, unless specifically **allowed in the BDS**. If so allowed, ITB Sub-Clauses 18.1 and 18.2 shall govern.
- 18.2 A bidder may submit an alternative bid with or without a bid for the base case. All bids received, for the base case, as well as alternative bids meeting the technical specifications and performance requirements pursuant to Section VI, shall be evaluated on their own merits.
- 18.3 Alternative bids shall provide all information necessary for a complete evaluation of the alternative by the Procuring Entity, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details.

**19.
Format and
Signing of Bid**

- 19.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB Clause 13, bound with the volume containing the Form of Bid, and clearly marked **“ORIGINAL”**. In addition, the Bidder shall submit copies of the Bid, in the number **specified in the BDS**, and clearly marked as **“COPIES”**. In the event of discrepancy between them, the original shall prevail.
- 19.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to ITB Sub-Clause 5.3 (a). All pages of the Bid where entries or amendments have been made shall be initialled by the person or persons signing the Bid.
- 19.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Procuring Entity, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the Bid.
- 19.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the

contract.

D. Submission of Bids

20. Submission, Sealing and Marking of Bids

20.1 Bidders may always submit their bids by mail or by hand. When so **specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the procedures **specified in the BDS**. The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as **“ORIGINAL”** and **“COPIES”**.

20.2 The inner and outer envelopes shall

- (a) be addressed to the Procuring Entity at the address **provided in the BDS**;
- (b) bear the name and identification number of the Contract as **defined in the BDS** and SCC; and
- (c) provide a warning not to open before the specified time and date for Bid opening as **defined in the BDS**.

20.3 In addition to the identification required in ITB Sub-Clause 20.2, the inner envelopes shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared late, pursuant to ITB Clause 22.

20.4 If the outer envelope is not sealed and marked as above, the Procuring Entity shall assume no responsibility for the misplacement or premature opening of the Bid.

20.5 The Proposals shall be deposited in the TENDER BOX provided at the address **specified in the BDS**.

21. Deadline for Submission of Bids

21.1 Bids shall be delivered to the Procuring Entity at the address specified above no later than the time and date **specified in the BDS**.

21.2 The Procuring Entity may extend the deadline for submission of bids by issuing an amendment in accordance with ITB Clause 11, in which case all rights and obligations of the Procuring Entity and the bidders previously subject to the original deadline

shall then be subject to the new deadline.

**22.
Late Bids**

22.1 Any Bid received by the Procuring Entity after the deadline prescribed in ITB Clause 21 shall be returned unopened to the Bidder.

**23.
Withdrawal,
Substitution
and
Modification
of Bids**

23.1 Bidders may withdraw, substitute or modify their Bids by giving notice in writing before the deadline prescribed in ITB Clause 21.

23.2 Each Bidder's withdrawal, substitution or modification notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 19 and 20, with the outer and inner envelopes additionally marked or "WITHDRAWAL," "SUBSTITUTION," OR "MODIFICATION" as appropriate.

23.3 No Bid may be substituted or modified after the deadline for submission of Bids.

23.4 Withdrawal of a Bid between the deadline for submission of bids and the expiration of the period of Bid validity specified in the Bidding Data or as extended pursuant to ITB Sub-Clause 16.2 may result in the forfeiture of the Bid Security pursuant to ITB Clause 17.

23.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids, by submitting Bid modifications in accordance with this clause or included in the initial Bid

E. Bid Opening and Evaluation

**24.
Bid Opening**

24.1 The Procuring Entity shall open the bids, including modifications made pursuant to Clause 23, in the presence of the bidders' representatives who choose to attend at the time and in the place **specified in the BDS**. Any specific opening procedures required if electronic bidding is permitted in accordance with ITB Sub-Clause 20.1, shall be as specified in the BDS.

24.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 23 shall not be opened.

24.3 The bidders' names, the Bid prices, the total

amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid withdrawals, substitutions, or modifications, the presence or absence of Bid Security if required, and such other details as the Procuring Entity may consider appropriate, shall be announced by the Procuring Entity at the opening. No bid shall be rejected at bid opening except for the late bids pursuant to ITB Clause 22. Substitution Bids and modifications submitted pursuant to ITB Clause 23 that are not opened and read out at bid opening shall not be considered for further evaluation regardless of the circumstances. Late, withdrawn and substituted bids shall be returned unopened to bidders

24.4 The Procuring Entity shall prepare Minutes of the Bid Opening, including the information disclosed, to those present, in accordance with ITB Sub-Clause 24.3.

25. Confidentiality

25.1 Information relating to the Examination, Clarification, Evaluation, and Comparison of Bids and Recommendations for the Award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the award to the successful Bidder has been announced pursuant to ITB Sub-Clause 34.4. Any effort by a Bidder to influence the Procuring Entity's processing of bids or award decisions may result in the rejection of its Bid. Notwithstanding the above, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.

26. Clarification of Bids

26.1 To assist in the examination, evaluation, and comparison of Bids, the Procuring Entity may, at the Procuring Entity's discretion, ask any Bidder for clarification of the Bidder's Bid, including breakdowns of unit rates.

The request for clarification and the response shall be in writing, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Procuring Entity

in the evaluation of the Bids in accordance with ITB Clause 28.

**27.
Examination of
Bids and
Determination
of
Responsive-
ness**

27.1 Prior to the detailed evaluation of Bids, the Procuring Entity shall determine whether each Bid (a) meets the eligibility criteria defined in ITB Clause 4; (b) has been properly signed; (c) is accompanied by the Security, if required; and (d) is substantially responsive to the requirements of the Bidding Documents.

27.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the Bidding Documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Bidding Documents, the Procuring Entity's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

27.3 If a Bid is not substantially responsive, it shall be rejected by the Procuring Entity, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

**28.
Correction of
Errors**

28.1 Bids determined to be substantially responsive shall be checked by the Procuring Entity for any arithmetic errors. Errors shall be corrected by the Procuring Entity as follows:

(a) where there is a discrepancy between the amounts in figures and in words, the amount in words shall govern; and

(b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted shall govern, unless in the opinion of the Procuring Entity there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted shall govern, and the unit rate shall be corrected.

28.2 The amount stated in the Bid shall be adjusted by the Procuring Entity in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid shall be rejected, and the Bid Security may be forfeited in accordance with ITB Sub-Clause 17.5 (b).

29.
Currency for
Bid Evaluation

29.1 Bids shall be evaluated as quoted in the currency of the Procuring Entity's Country in accordance with ITB Sub-Clause 15.1, unless a Bidder has used different exchange rates than those prescribed in ITB Sub-Clause 15.2, in which case the Bid shall be first converted into the amounts payable in different currencies using the rates quoted in the Bid and then reconverted to the Procuring Entities currency using the exchange rates prescribed in ITB Sub-Clause 15.2.

30.
Evaluation and
Comparison of
Bids

30.1 The Procuring Entity shall evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Clause 27.

30.2 In evaluating the bids, the Procuring Entity shall determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:

- (a) making any correction for errors pursuant to ITB Clause 28;
- (b) excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Daywork, where priced competitively;
- (c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with ITB Clause 18; and
- (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITB Sub-Clause 23.5.

30.3 The Procuring Entity reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the

requirements of the Bidding Documents or otherwise result in unsolicited benefits for the Procuring Entity shall not be taken into account in Bid evaluation.

30.4 The estimated effect of any price adjustment conditions under GCC Clause 47, during the period of implementation of the Contract, shall not be taken into account in Bid evaluation.

30.5 In the case of several lots, pursuant to ITB Sub-Clause 30.2 (d), the Procuring Entity shall determine the application of discounts so as to minimize the combined cost of all the lots.

**32.
Award Criteria**

32.1 Subject to ITB Clause 33, the Procuring Entity shall award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bidding Documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of ITB Clause 4, and (b) qualified in accordance with the provisions of ITB Clause 5.

**33.
Procuring
Entity's Right
to Accept any
Bid and to
Reject any or
all Bids**

33.1 Notwithstanding ITB Clause 32, the Procuring Entity reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Procuring Entity's action.

F. Award of Contract

34. Notification of Award and Signing of Agreement

- 34.1 The Bidder whose Bid has been accepted shall be notified of the award by the Procuring Entity prior to expiration of the Bid validity period in writing. This letter (hereinafter and in the GCC called the “Letter of Acceptance”) shall state the sum that the Procuring Entity shall pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the “Contract Price”).
- 34.2 The Letter of Acceptance shall constitute the formation of the Contract, subject to the Bidder furnishing the Performance Security in accordance with ITB Clause 35 and signing the Agreement in accordance with ITB Sub-Clause 34.3.
- 34.3 The Agreement shall incorporate all agreements between the Procuring Entity and the successful Bidder. It shall be signed by the Procuring Entity and sent to the successful Bidder, within 28 days following the Letter of Acceptance’s date. Within 21 days of receipt, the successful Bidder shall sign the Agreement and deliver it to the Procuring Entity.
- 34.4 The Procuring Entity shall promptly respond in writing to any unsuccessful Bidder who, after publication of contract award requests the Procuring Entity in writing to explain on which grounds its bid was not selected. Prior to the expiration of the period of bid validity, the Procuring Entity shall notify the successful Bidder, in writing, that its bid has been accepted. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the “Letter of Acceptance”) shall specify the sum that the Procuring Entity will pay the Contractor in consideration of the execution and completion of the Services (hereinafter and in the Conditions of Contract and Contract Forms called “the Contract Price”) and the requirement for the Contractor to remedy any defects therein as prescribed by the Contract. At the same time, the Procuring

Entity shall inform all unsuccessful bidders and shall publish the name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

**35.
Performance
Security**

35.1 Within 21 days after receipt of the Letter of Acceptance, the successful Bidder shall sign the contract and deliver to the Procuring Entity a Performance Security in the amount stipulated in the GCC and in the form (Bank Guarantee or Bond) **stipulated in the BDS**, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the GCC.

35.2 If the Performance Security is provided by the successful Bidder in the form of a Bank Guarantee, it shall be issued at the Bidder's option, by a bank located in the country of the Procuring Entity, or by a foreign bank acceptable to the Procuring Entity through a correspondent bank located in the Procuring Entity's country.

35.3 If the Performance Security is to be provided by the successful Bidder in the form of a Bond, it shall be issued by a surety which the Bidder has determined to be acceptable to the Procuring Entity.

35.4 Failure of the successful Bidder to comply with the requirements of ITB Sub-Clauses 35.1 and 34.3 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security. Upon the successful Bidder's, signing of the Agreement and furnishing of the Performance Security pursuant to ITB Clause 35.1, the Procuring Entity shall promptly notify the name of the winning bidder to each unsuccessful bidder and shall discharge the Bid Securities of the unsuccessful bidders pursuant to ITB Clause 17.4.

**36.
Advance
Payment and
Security**

36.1 The Procuring Entity shall provide an Advance Payment on the Contract Price as stipulated in the GCC, subject to a maximum amount, as **stated in the BDS**. The Advance Payment shall be guaranteed by a Security. Section IX "Security Forms" provides a Bank Guarantee for Advance Payment form.

Section II. Bidding Data Sheet

A. General

ITB 1.1	<p>The Procuring Entity: <i>Ministry of Justice</i>.</p> <p>The name of the contract is: <i>Clarendon Parish Court (Frankfield) - Refurbishing Works</i>.</p> <p>The Identification Number for the contract is: <i>MOJ/CPCFRW/2018/8</i></p> <p>The works to be executed under this Contract shall include but not limited to: <i>Demolition and site clearance, joinery work, floor finishes, wall and ceiling finishes, painting and decorating, plumbing installation and also engineering services</i>.</p>
	<p><i>A mandatory site visit will be held on Monday, August 27, 2018 at 1:00 PM.</i></p>
ITB 1.2	<p>The Intended Completion Date is <i>three (3) months from the date of contract signing</i>.</p>
ITB 4.3	<p>At the time of the tender the bidder shall present to the Procuring Entity a valid Tax Compliance Certificate for due taxes in Jamaica.</p>
ITB 4.4	<p>To be eligible to bid, prospective bidder shall present a valid certificate of Registration with the NCC in the category Building Construction Grade 3 (minimum).</p> <p>For more information: http://www.ocg.gov.jm</p>

ITB 5.3	<p>The information required from bidder in ITB Sub-Clause 5.3 is modified as follows:</p> <p>The following items are required –</p> <p>5.3(c) experience in (i.e., a list of all) Works of a similar nature and size for each of the last 3 years (i.e., disaggregated by year) and details of work underway or contractually committed (including percentage completion), and clients who may be contacted for further information on those contracts;</p> <p>5.3(g) evidence of adequacy of working capital for this contract (access to line(s) of credit and availability of other financial resources {See also 5.5 (e) below});</p> <p>5.3(h) authority to seek references from the bidder bankers’;</p> <p>5.3(i) information regarding any litigation, current or during the last five years, in which the Bidder was/is involved, the parties concerned, and the disputed amounts; and awards.</p> <p>Failure to submit the above may result in the rejection of the bid.</p>
ITB 5.3(l)	N.B. The Procuring Entity reserves the right not to award a contract to any party with whom it is currently in litigation or with whom it has been previously involved in litigation];
ITB 5.3 (j)	The ceiling for sub contractor's participation (if applicable) is: 25%
ITB 5.4	the qualification data required from bidders in ITB sub-clause 5.4 are modified as follows: Not applicable
ITB 5.5	<p>The qualification criteria in ITB Sub-Clause 5.5 are modified as follows:</p> <p>Bidder is expected to meet the following minimum criteria –</p> <p><u>5.5(e) Evidence of a minimum amount of liquid assets and/or credit facilities to the value of \$5,000,000, net of other contractual commitments, available to the successful</u></p>

	<u>Bidder.</u>
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B. Bidding Documents

ITB 10.1	<p>The Procuring Entity's address for clarification is: Attention : <i>Triston Aiken</i> <i>Director, Procurement Unit</i> Address: 61 Constant Spring Road, Kingston 10 Telephone : 906-4923-31 Electronic mail address: triston.aiken@moj.gov.jm <i>Requests for clarification must be submitted by Friday, August 31, 2018 at 4:00 pm.</i></p>
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C. Preparation of Bids

ITB 12.1	The language of the bid is: English
ITB 13.1	There is no additional material required to be completed and submitted by the Bidder.
ITB 14.4	The Contract <i>is not</i> subject to price adjustment in accordance with GCC Clause 47.
ITB 15.1	The currency is: Jamaican Dollars
ITB 16.1	The Bid shall be valid for <i>90 Days</i>
ITB 17.1	No Bid Security is required.
ITB 18.1	Alternative Bid <i>shall not be</i> considered.
ITB 19.1	The number of copies of the Bid to be completed and returned shall be <i>three (3)</i> , (i.e. <i>one original and two copies</i>).

D. Submission of Bids

ITB 20.1	Bidder may not submit their bids electronically
ITB 20.2 (a)	<p>The Procuring Entity's address for the purpose of Bid submission is: Attention : <i>Triston Aiken</i> <i>Director, Procurement Unit</i> Address: 61 Constant Spring Road, Kingston 10</p>

	<i>St. Andrew, Jamaica</i>
ITB 20.2 (b)	Name and Identification number of the contract as <i>Clarendon Parish Court (Frankfield) and MOJ/CPCFRW/2018/8</i>
ITB 21.1	The deadline for submission of bid shall be 10:00Am, September 7, 2018.

F. Award of Contract

ITB 32.1	The Procuring Entity shall award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bidding Documents and who has offered the lowest evaluated Bid price.
ITB 35.1	The Standard Form of Performance Security acceptable to the Procuring Entity shall be a <i>performance bond</i> .
ITB 36.1	Where the contractor finds it necessary to apply for an Advance Payment (Mobilisation Sum), this shall be limited to 10% percent of the Contract Price. (N.B. - Any such Advance Payment must be guaranteed by a security, i.e. Bank Guarantee/Mobilisation Bond from a licensed financial institution, which should be submitted along with the application for said payment.)

**Section III.
Forms of Bid
Qualification Information
Letter of Acceptance -
Agreement**

1. Contractor's Bid

The **Bidder** shall fill in and submit this Bid form with the Bid.

[date]

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

To: *[name and address of Procuring Entity]*

Having examined the Bidding Documents, including addenda *[insert list]*, we offer to execute the *[name and identification number of Contract]* in accordance with the GCC accompanying this Bid for the Contract Price of *[insert amount in words] [insert amount in numbers], [insert name of currency]*.

The Contract shall be paid in the following currencies: Jamaican Dollars

Currency	Percentage payable in currency	Rate of exchange: one foreign equals <i>[insert local]</i>	Inputs for which foreign currency is required
(a)			
(b)			

The advance payment required is:

Amount	Currency
(a)	
(b)	

This Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid complies with the Bid validity and, if required, Bid Security as required by the Bidding Documents and specified in the BDS.

We, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB Sub-Clause 4.1;

We have no conflict of interest in accordance with ITB Sub-Clause 4.2;

Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the GOJ.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

2. Qualification Information

[The information to be filled in by bidders in the following pages shall be used for purposes of post-qualification or for verification of prequalification as provided for in ITB Clause 5. This information shall not be incorporated in the Contract. Attach additional pages as necessary. Pertinent sections of attached documents should be translated into English. If used for prequalification verification, the Bidder should fill in updated information only.]

1. Individual Bidders or Individual Members of Joint Ventures

- 1.1 Constitution or legal status of Bidder: *[attach copy]*
Place of registration: *[insert]*
Principal place of business: *[insert]*
Power of attorney of signatory of Bid: *[attach]*
- 1.2 Annual amounts of construction works performed during the last *[insert number pursuant to BDS sub clause 4.5(a)]* years *[insert amounts in the national currency equivalent]*
- 1.3 Number *[insert number pursuant to BDS sub clause 4.5 (b)]* of works of a nature and amount similar to the Works performed as prime Contractor over the last *[insert number pursuant to BDS 4.5(b)]* years. *[The amounts should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date(s).]*

Project name and country	Name of client and contact person	Type of work performed and year of completion	Value of contract (national currency equivalent)
(a)			
(b)			

- 1.4 Major items of Contractor's Equipment proposed for carrying out the Works. *[List all information requested below. Refer also to ITB Sub-Clause 5.3 (d).]*

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
(a)			
(b)			

Position	Name	Years of experience (general)	Years of experience in proposed position
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1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. *[Attach biographical data. Refer also to ITB Sub-Clause 5.3 (e) and GCC Sub-Clause 9.1.]*

(a)			
(b)			

1.6 Proposed subcontracts and firms involved. Refer to GCC Clause 7.

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
(a)			
(b)			

1.7 Financial reports for the last *[insert number; usually 5]* years: balance sheets, profit and loss statements, auditors' reports, etc. *[List below and attach copies.]*

1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.

1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Procuring Entity.

1.10 Information on current litigation(s) in which the Bidder is involved.

Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

1.11 Proposed Program (work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the Bidding Documents.

- 2. Joint Ventures**
- 2.1 The information listed in 1.1 - 1.10 above shall be provided for each partner of the joint venture.
 - 2.2 The information in 1.11 above shall be provided for the joint venture.
 - 2.3 Attach the power of attorney of the signatory(ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.
 - 2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:
 - (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (b) one of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 3. Additional Requirements**
- 3.1 Bidders should provide any additional information required in the BDS.

3. Letter of Acceptance

[letterhead paper of the Procuring Entity]

[The Letter of Acceptance shall be the basis for formation of the Contract as described in ITB Clauses 34 and 35. This Standard Form of Letter of Acceptance shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed.]

[insert date]

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

To: *[insert name and address of the Contractor]*

This is to notify you that your Bid dated *[insert date]* for execution of the *[insert name of the Contract and identification number, as given in the SCC]* for the Contract Price of the equivalent of *[insert amount in numbers and words]* *[insert name of currency]*, as corrected and modified¹ in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are hereby instructed to (a) proceed with the execution of the said Works in accordance with the Contract Documents, (b) sign and return the attached Contract Documents, and (c) forward the performance security pursuant to ITB Sub-Clause 35.1, i.e., within 21 days after receipt of this Letter of Acceptance, and pursuant to GCC Sub-Clause 52.1

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Agreement

4. Agreement

[The Agreement shall incorporate any corrections or modifications to the Bid resulting from corrections of errors (ITB Clause 28), price adjustment during the evaluation process (ITB Sub-Clause 16.3, selection of an alternative offer (ITB Clause 18), acceptable deviations (ITB Clause 27), or any other mutually-agreeable changes allowed for in the Conditions of Contract, such as changes in key personnel, subcontractors, scheduling, and the like.]

This Agreement, made the *[insert day]* day of *[insert month]*, *[insert year]* between *[insert name and address of Procuring Entity]* (hereinafter called “the Procuring Entity”) and *[insert name and address of Contractor]* (hereinafter called “the Contractor”) of the other part.

Whereas the Procuring Entity is desirous that the Contractor execute *[insert name and identification number of Contract]* (hereinafter called “the Works”) and the Procuring Entity has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

Now this Agreement witnesseth as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Procuring Entity to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Procuring Entity to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Procuring Entity hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

The Common Seal of *[Witness entity]*_____

was hereunto affixed in the presence of: _____

Signed, Sealed, and Delivered by the said _____

in the presence of: _____

Binding Signature of Procuring Entity *[signature of an authorized representative of the Procuring Entity]*

Binding Signature of Contractor *[signature of an authorized representative of the Contractor]*

Section IV. General Conditions of Contract

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General Conditions of Contract

A. General

1. Definitions

1.1 Boldface type is used to identify defined terms.

- (a) **Bill of Quantities** means the priced and completed Bill of Quantities forming part of the Bid.
- (b) **Compensation Events** are those defined in GCC Clause 44 hereunder.
- (c) The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Sub-Clause 55.1.
- (d) The **Contract** is the Contract between the Procuring Entity and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in GCC Clause 2.3 below.
- (e) The **Contractor** is a person or corporate body whose Bid to carry out the Works has been accepted by the Procuring Entity.
- (f) The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the Procuring Entity.
- (g) The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
- (h) **Days** are calendar days; months are calendar months.
- (i) **Dayworks** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- (j) A **Defect** is any part of the Works not completed in accordance with the Contract.
- (k) The **Defects Liability Certificate** is the

certificate issued by Project Manager upon correction of defects by the Contractor.

- (l) The **Defects Liability Period** is the period named in the SCC Sub-Clause 35.1 and calculated from the Completion Date.
- (m) **Drawings** include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- (n) The **Procuring Entity** is the party who employs the Contractor to carry out the Works, as specified in the SCC.
- (o) **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- (p) The **Initial Contract Price** is the Contract Price listed in the Procuring Entity's Letter of Acceptance.
- (q) The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the SCC. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- (r) **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- (s) **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- (t) The **Project Manager** is the person named in the SCC (or any other competent person appointed by the Procuring Entity and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.
- (u) **SCC** means Special Conditions of Contract
- (v) The **Site** is the area defined as such in the

SCC.

- (w) **Site Investigation Reports** are those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site.
- (x) **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- (y) The **Start Date** is given in the SCC. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- (z) A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- (aa) **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.
- (bb) A **Variation** is an instruction given by the Project Manager which varies the Works.
- (cc) The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Procuring Entity, as defined in the SCC.

2. Interpretation

- 2.1 In interpreting these GCC, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager shall provide instructions clarifying queries about these GCC.
- 2.2 If sectional completion is specified in the SCC, references in the GCC to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

2.3 The documents forming the Contract shall be interpreted in the following order of priority:

- (a) Agreement,
- (b) Letter of Acceptance,
- (c) Contractor's Bid,
- (d) Special Conditions of Contract,
- (e) General Conditions of Contract,
- (f) Specifications,
- (g) Drawings,
- (h) Bill of Quantities, and
- (i) any other document **listed in the SCC** as forming part of the Contract.

**3.
Language and
Law**

3.1 The language of the Contract and the law governing the Contract are **stated in the SCC**.

**4.
Project
Manager's
Decisions**

4.1 Except where otherwise specifically stated, the Project Manager shall decide contractual matters between the Procuring Entity and the Contractor in the role representing the Procuring Entity.

**5.
Delegation**

5.1 The Project Manager may delegate any of his duties and responsibilities to other people, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

**6.
Communica-
tions**

6.1 Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered.

**7.
Subcontracting**

7.1 The Contractor may subcontract with the approval of the Project Manager, but may not assign the Contract without the approval of the Procuring Entity in writing. Subcontracting shall not alter the Contractor's obligations.

**8.
Other
Contractors**

8.1 The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Procuring Entity between the dates given in the Schedule of Other Contractors, as **referred to in the SCC**. The Contractor shall also provide facilities and services for them as described in the Schedule. The Procuring Entity may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

**9.
Personnel**

9.1 The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as **referred to in the SCC**, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager shall approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.

9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within seven days and has no further connection with the work in the Contract.

**10.
Procuring
Entity's and
Contractor's
Risks**

10.1 The Procuring Entity carries the risks which this Contract states are Procuring Entity's risks, and the Contractor carries the risks which this Contract states are Contractor's risks.

**11.
Procuring
Entity's Risks**

11.1 From the Start Date until the Defects Correction Certificate has been issued, the following are Procuring Entity's risks:

(a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to

(i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or

(ii) negligence, breach of statutory duty, or interference with any legal right by the Procuring Entity or by any person employed by or contracted to him except the Contractor.

(b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Procuring Entity or in the Procuring Entity's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.

11.2 From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Procuring Entity's risk except loss or damage due to

(a) a Defect which existed on the Completion Date,

(b) an event occurring before the Completion Date, which was not itself an Procuring Entity's risk, or

(c) the activities of the Contractor on the Site after the Completion Date.

**12.
Contractor's
Risks**

12.1 From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Procuring

Entity's risks are Contractor's risks.

13. Insurance

13.1 The Contractor shall provide, in the joint names of the Procuring Entity and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles **stated in the SCC** for the following events which are due to the Contractor's risks:

- (a) loss of or damage to the Works, Plant, and Materials;
- (b) loss of or damage to Equipment;
- (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
- (d) personal injury or death.

13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

13.3 If the Contractor does not provide any of the policies and certificates required, the Procuring Entity may effect the insurance which the Contractor should have provided and recover the premiums the Procuring Entity has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

13.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.

13.5 Both parties shall comply with any conditions of the insurance policies.

14. Site Investigation Reports

14.1 The Contractor, in preparing the Bid, shall rely on any Site Investigation Reports **referred to in the SCC**, supplemented by any information available to the Bidder.

**15.
Queries about
the Special
Conditions of
Contract**

15.1 The Project Manager shall clarify queries on the SCC.

**16.
Contractor to
Construct the
Works**

16.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

**17.
The Works to
Be Completed
by the
Intended
Completion
Date**

17.1 The Contractor may commence execution of the Works on the Start Date and shall carry out the Works in accordance with the Program submitted by the Contractor, as updated with the approval of the Project Manager, and complete them by the Intended Completion Date.

**18.
Approval by
the Project
Manager**

18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.

18.2 The Contractor shall be responsible for design of Temporary Works.

18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.

18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

18.5 All Drawings prepared by the Contractor for the execution of the temporary or permanent Works, are subject to prior approval by the Project Manager before this use.

**19.
Safety**

19.1 The Contractor shall be responsible for the safety of all activities on the Site.

**20.
Discoveries**

20.1 Anything of historical or other interest or of significant value unexpectedly discovered on the Site shall be the property of the Procuring Entity. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

**21.
Possession of
the Site**

21.1 The Procuring Entity shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date **stated in the SCC**, the Procuring Entity shall be deemed to have delayed the start of the relevant activities, and this shall be a Compensation Event.

**22.
Access to the
Site**

22.1 The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

**23.
Instructions,
Inspections**

23.1 The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.

and Audits 23.2 The Contractor shall permit the Procuring Entity to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by auditors appointed by the Government of Jamaica (GOJ) if so required.

24. Disputes 24.1 If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Arbitration within 14 days of the notification of the Project Manager's decision.

B. Time Control

25. Program 25.1 Within the time **stated in the SCC**, after the date of the Letter of Acceptance, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.

25.2 An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.

25.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period **stated in the SCC**. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount **stated in the SCC** from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.

25.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

26. Extension of 26.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for

**the Intended
Completion
Date**

Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.

26.2 The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 21 days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

**27.
Acceleration**

27.1 When the Procuring Entity wants the Contractor to finish before the Intended Completion Date, the Project Manager shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Procuring Entity accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Procuring Entity and the Contractor.

27.2 If the Contractor's priced proposals for acceleration are accepted by the Procuring Entity, they are incorporated in the Contract Price and treated as a Variation.

**28.
Delays
Ordered by
the Project
Manager**

28.1 The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

**29.
Management
Meetings**

29.1 Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.

29.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Procuring Entity. The responsibility of the parties for

actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

30. Early Warning

30.1 The Contractor shall warn the Project Manager at the earliest opportunity of specific likely future events or circumstances that may adversely affect the quality of the work, increase the Contract Price, or delay the execution of the Works. The Project Manager may require the Contractor to provide an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date. The estimate shall be provided by the Contractor as soon as reasonably possible.

30.2 The Contractor shall cooperate with the Project Manager in making and considering proposals for how the effect of such an event or circumstance can be avoided or reduced by anyone involved in the work and in carrying out any resulting instruction of the Project Manager.

C. Quality Control

31. Identifying Defects

31.1 The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

32. Tests

32.1 If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.

33. Correction of Defects

33.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is **defined in the SCC**. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

33.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

**34.
Uncorrected
Defects**

34.1 If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.

D. Cost Control

**35.
Bill of
Quantities**

35.1 The Bill of Quantities shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.

35.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

**36.
Changes in the
Quantities**

36.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than twenty-five percent (25%), provided the change exceeds one percent (1%) of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.

36.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 15 percent, except with the prior approval of the Procuring Entity.

38.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

**37.
Variations**

37.1 All Variations shall be included in updated Programs produced by the Contractor.

**38.
Payments for
Variations**

38.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.

38.2 If the work in the Variation corresponds with an item

description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 36.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.

38.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.

38.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.

38.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

39. Cash Flow Forecasts

39.1 When the Program is updated, the Contractor shall provide the Project Manager with an updated cash flow forecast. The cash flow forecast shall include different currencies, as defined in the Contract, converted as necessary using the Contract exchange rates.

40. Payment Certificates

40.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.

40.2 The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor.

40.3 The value of work executed shall be determined by the Project Manager.

40.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities

completed.

40.5 The value of work executed shall include the valuation of Variations and Compensation Events.

40.6 The Project Manager may exclude any item certified in a previous certificate or reduce the proportion of any item previously certified in any certificate in the light of later information.

41. Payments

41.1 Payments shall be adjusted for deductions for advance payments and retention. The Procuring Entity shall pay the Contractor the amounts certified by the Project Manager within 28 days of the date of each certificate

41.2 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.

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

42. Compensation Events

42.1 The following shall be Compensation Events:

(a) The Procuring Entity does not give access to a part of the Site by the Site Possession Date pursuant to GCC Sub-Clause 21.1.

(b) The Procuring Entity modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.

(c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.

(d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.

(e) The Project Manager unreasonably does not approve a subcontract to be let.

(f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available

publicly and from a visual inspection of the Site.

- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Procuring Entity, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Procuring Entity does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Procuring Entity's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.

42.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

42.3 As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager shall assume that the Contractor shall react competently and promptly to the event.

42.4 The Contractor shall not be entitled to compensation to the extent that the Procuring Entity's interests are adversely affected by the Contractor's not having given early warning or not having cooperated with the Project Manager.

43. Tax

43.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 days before the submission of bids for the

Contract and the date of the last Completion certificate.

The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of GCC Clause 45.

44. Currencies

44.1 Where payments are made in currencies other than the currency of the Procuring Entity's country **specified in the SCC**, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's Bid.

45. Price Adjustment

45.1 Prices shall be adjusted for fluctuations in the cost of inputs only if **provided for in the SCC**. If so provided, the amounts certified in each payment certificate, before deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:

$$P_c = A_c + B_c \text{ Imc/loc}$$

where:

P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency "c."

A_c and B_c are coefficients

specified in the SCC, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency "c;" and

Imc is the index prevailing at the end of the month being invoiced and loc is the index prevailing 28 days before Bid opening for inputs payable; both in the specific currency "c."

45.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.

46. Retention

46.1 The Procuring Entity shall retain from each payment due to the Contractor the proportion **stated in the SCC** until Completion of the whole of the Works.

46.2 On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

46.3 On completion of the whole Works, the Contractor may substitute retention money with an “on demand” Bank guarantee.

47. Liquidated Damages

47.1 The Contractor shall pay liquidated damages to the Procuring Entity at the rate per day **stated in the SCC** for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount **defined in the SCC**. The Procuring Entity may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities.

47.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment, calculated from the date of payment to the date of repayment, at the rates specified in GCC Sub-Clause 41.1.

48. Bonus

48.1 The Contractor shall be paid a Bonus calculated at the rate per calendar day **stated in the SCC** for each day (less any days for which the Contractor is paid for acceleration) that the Completion is earlier than the Intended Completion Date. The Project Manager shall certify that the Works are complete, although they may not be due to be complete.

49. Advance Payment

49.1 The Procuring Entity shall make advance payment to the Contractor of the amounts **stated in the SCC** by the date **stated in the SCC**, against provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Procuring Entity in amounts and currencies equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest shall not be charged

on the advance payment.

49.2 The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.

49.3 The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

50. Securities

50.1 The Performance Security shall be provided to the Procuring Entity no later than the date specified in the Letter of Acceptance and shall be issued in an amount **specified in the SCC**, by a bank or surety acceptable to the Procuring Entity, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The Performance Security shall be valid until a date 28 days from the date of issue of the Certificate of Completion in the case of a Bank Guarantee, and until one year from the date of issue of the Completion Certificate in the case of a Performance Bond.

51. Dayworks

51.1 If applicable, the Dayworks rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.

51.2 All work to be paid for as Dayworks shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two days of the work being done.

51.3 The Contractor shall be paid for Dayworks subject to obtaining signed Dayworks forms.

52. Cost of Repairs

52.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if

the loss or damage arises from the Contractor's acts or omissions.

E. Finishing the Contract

53. Completion

53.1 The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager shall do so upon deciding that the work is completed.

54. Taking Over

54.1 The Procuring Entity shall take over the Site and the Works within seven days of the Project Manager's issuing a certificate of Completion.

55. Final Account

55.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 56 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 56 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

56. Operating and Maintenance Manuals

56.1 If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them by the dates stated in the SCC.

56.2 If the Contractor does not supply the Drawings and/or manuals by the dates stated in the SCC, or they do not receive the Project Manager's approval, the Project Manager shall withhold the amount stated in the SCC from payments due to the Contractor.

57. Termination

57.1 The Procuring Entity or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

57.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:

- (a) the Contractor stops work for 28 days when no stoppage of work is shown on the current Program

and the stoppage has not been authorized by the Project Manager;

- (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days;
- (c) the Procuring Entity or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
- (d) a payment certified by the Project Manager is not paid by the Procuring Entity to the Contractor within 84 days of the date of the Project Manager's certificate;
- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
- (f) the Contractor does not maintain a Security, which is required; and
- (g) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as **defined in the SCC**.
- (h) if the Contractor, in the judgment of the Procuring Entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this paragraph:

- (i) "corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the procurement process or in contract execution;
- (ii) "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial

non-competitive levels and to deprive the Procuring Entity of the benefits of free and open competition.

(iii) “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, noncompetitive levels of a contract; and

(iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement process or affect the execution of a contract;

57.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Sub-Clause 57.2 above, the Project Manager shall decide whether the breach is fundamental or not.

57.4 Notwithstanding the above, the Procuring Entity may terminate the Contract for convenience.

57.5 If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.

58. Payment upon Termination

58.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the SCC. Additional Liquidated Damages shall not apply. If the total amount due to the Procuring Entity exceeds any payment due to the Contractor, the difference shall be a debt payable to the Procuring Entity.

58.2 If the Contract is terminated for the Procuring Entity’s convenience or because of a fundamental breach of Contract by the Procuring Entity, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs

of protecting and securing the Works, and less advance payments received up to the date of the certificate.

**59.
Property**

59.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Procuring Entity if the Contract is terminated because of the Contractor's default.

**60.
Release from
Performance**

60.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Procuring Entity or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

Section V. Special Conditions of Contract

A. General	
GCC 1.1 (d)	The name of the contract is: <i>Clarendon Parish Court (Frankfield) - Refurbishing Works.</i>
GCC 1.1 (l)	The Defects Liability Period is <i>three (3) months</i>
GCC 1.1 (n)	The Procuring Entity is : <i>Ministry of Justice 61 Constant Spring Road, Kingston 10</i>
GCC 1.1 (q)	The Intended Completion Date for the whole of the Works shall be <i>December 31, 2018.</i>
GCC 1.1 (t)	The Project Manager is: <i>Vivian Gordon 61 Constant Spring Road, Kingston 10</i>
GCC 1.1 (y)	The Start Date shall be four (4) days after contract signing.
GCC 1.1 (cc)	This Contract comprises the supply of <i>labour, materials, equipment, testing equipment and any other necessary tools and machinery</i> for the <i>Refurbishing Works for the Clarendon Parish Court, Frankfield.</i> The works to be executed under this Contract shall include the supply, installation, and completion of the following: <i>a. Electrical works b. Floor finishes c. Installation of windows and doors d. Plumbing works e. External and internal painting</i> at the <i>Clarendon Parish Court (Frankfield)</i>
GCC 2.3(i)	The following documents also form part of the Contract: • <i>Performance Security</i>
GCC 3.1	The language of the contract is <i>English</i>

	The law that applies to the Contract is the law of <i>Jamaica</i> .
GCC 8.1	Schedule of other contractors: <i>To be provided, where applicable.</i>
GCC 9.1	Key Personnel: <i>To be determined.</i>
GCC 13.1	The minimum insurance amounts and deductibles shall be <i>\$5,000,000</i> for any of the following occurrences: (a) for the Works, Plant and Materials (b) For loss or damage to Equipment (c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract. (d) for personal injury or death: (i) of the Contractor's employees; (ii) of other people.
GCC 14.1	Site Investigation Reports are: <i>N/A</i>
GCC 21.1	The Site Possession Date for the <i>Clarendon Parish Court (Frankfield)</i> site is <i>five (5)</i> days after contract signing.
GCC 25.2	The dispute resolution process shall be: Amicable Settlement Any claim for loss or damage arising out of breach or termination of Agreement shall be settled between the Purchaser and Supplier by negotiation. If this negotiation is not successfully settled within fifteen (15) days after the date of initiation or negotiation or within such longer period as the parties may mutually agree, then the parties will jointly agree, within ten (10) days after the date of expiration of the period in which the parties should have successfully concluded their negotiations, to appoint a Mediator to assist in reaching an amicable resolution of dispute. This procedure shall be private and without prejudice. If the parties fail to agree upon the appointment of a Mediator within the stipulated period, then, within seven (7) days of expiration of this period, the Procuring Entity shall request appointment of a Mediator by the Dispute Resolution Foundation of Jamaica. The Mediator shall not have the power to impose a settlement on the parties. If the dispute is not resolved between the parties within thirty (3) days after

	<p>the appointment of the Mediator by the Dispute Resolution Foundation of Jamaica, or after such longer period as the parties may mutually agree, the mediator shall advise the parties of the failure of the Mediation.</p> <p>For the purposes of this clause, a negotiation is deemed to have been initiated as of the date of receipt of notice by one party of a request from the other party to meet and negotiate the matter in dispute.</p> <p>For the purposes of this clause, a Mediator is deemed to have been appointed as of the date of notice of such appointment being given to both parties.</p> <p>Dispute Settlement</p> <p>In the event of the failure of the mediation between parties, the mediator will record those verifiable facts that the parties have agreed. Subsequently the case will be handled by arbitration. The parties agree to accept the award of the Arbitrator as binding and irrevocable with in the provisions of the Arbitration Act of Jamaica. The mediator's role in the dispute resolution process shall cease upon appointment of the Arbitrator. During the dispute settlement process, the Supplier shall continue to perform the work in accordance with this contract. Failure to do so shall be considered a breach of contract.</p> <p>Arbitration</p> <p>The seat of the arbitration shall be Jamaica and disputes shall be settled in accordance with the Arbitration Act of Jamaica. Rules of procedure to be adopted shall be those as published by the United Nations Commission on International Trade Law (UNCITRAL) <i>Arbitration Rules of 1976</i>.</p>
B. Time Control	
GCC 25.1	The Contractor shall submit for approval a Program for the Works within <i>three (3)</i> days from the date of the Letter of Acceptance.
GCC 25.3	<p>The period between Program updates is <i>seven (7)</i> days.</p> <p>The amount to be withheld for late submission of an updated Program is 5%.</p>
C. Quality Control	

GCC 33.1	The Defects Liability Period is: <i>12 months</i> .
D. Cost Control	
GCC 44.1	The currency of the Procuring Entity's country is: Jamaican Dollars
GCC 45.1	The Contract " <i>is not</i> " subject to price adjustment in accordance with GCC Clause 45, and the following information regarding coefficients " <i>does not</i> " apply.
GCC 46.1	The proportion of payments retained is: <i>10%</i>
GCC 47.1	The liquidated damages for the whole of the Works are <i>0.08%</i> per day. The maximum amount of liquidated damages for the whole of the Works is 10% of the final Contract Price.
GCC 49.1	The Advance Payments shall be: 10% of contract sum and shall be paid to the Contractor no later than eight days after receipt of Request and Mobilisation Bond
GCC 50.1	The Performance Security amount is <ul style="list-style-type: none"> • Performance Bond: <i>10%</i> • Mobilisation Bond (If applicable): <i>10%</i>
E. Finishing the Contract	
GCC 56.1	The date by which operating and maintenance manuals are required is <i>N/A</i> The date by which "as built" drawings are required is <i>N/A</i>
GCC 56.2	The amount to be withheld for failing to produce "as built" drawings and/or operating and maintenance manuals by the date required in GCC 58.1 is <i>N/A</i> .
GCC 57.2 (g)	The maximum number of days is: <i>28</i> .
GCC 58.1	The percentage to apply to the value of the work not completed, representing the Procuring Entity's additional cost for completing the Works, is <i>20%</i> .

Section VI. Specifications & Performance Requirements

This Contract comprises the supply of *labour, materials, equipment, testing equipment and any other necessary tools and machinery* for the *Refurbishing Works for the Clarendon Parish Court, Frankfield*.

The works to be executed under this Contract shall include the supply, installation, and completion of the following:

- a. *Electrical Works*
- b. *Floor finishes.*
- c. *Installation of windows and doors*
- d. *Plumbing works*
- e. *External and internal painting*

at the *Clarendon Parish Court (Frankfield)*.

Any other works as detailed in the *Bills of Quantities (BQ)*, or as required to complete the Contract to the satisfaction of the Engineer/Project Manager

Section VII. Drawings

[Please see attached as Appendix II.]

Section VIII. Bill of Quantities

[Please see attached as Appendix I.]

Section IX. Security Forms

Samples of acceptable forms of Bid, Performance, and Advance Payment Securities are provided in this Section IX. Bidders shall not complete the Performance and Advance Payment Security forms at this stage of the procurement process. Only the successful Bidder shall be required to provide these two securities.

Form of Bid Security (Bank Guarantee)

[If required, the Bank/Bidder shall fill in this Bank Guarantee form in accordance with the instructions indicated in brackets.]

[insert bank's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Procuring Entity]*

Date: *[insert date]*

BID GUARANTEE No.: *[insert number]*

We have been informed that *[insert name of the Bidder; if a joint venture, list complete legal names of partners]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of Contract]* under Invitation for Bids No. *[insert IFB number]* ("the IFB").

Furthermore, we understand that, according to your conditions, Bids must be supported by a Bid Guarantee.

At the request of the Bidder, we *[insert name of bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *([insert amount in words]) [insert amount in figures expressed in the currency of the Procuring Entity's Country or the equivalent amount in an international freely convertible currency]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB") of the IFB; or
- (c) having been notified of the acceptance of its Bid by the Procuring Entity during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This Guarantee shall expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the Contract signed by the Bidder and of the Performance Security issued to you by the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder that the Bidder was unsuccessful, or (ii) twenty-eight days after the expiration of the Bidder's Bid.

Form of Bid Security (Bid Bond)

[If required, the Surety/Bidder shall fill in this Bid Bond Form in accordance with the instructions indicated in brackets.]

BOND NO. *[insert Bond number]*

BY THIS BOND *[insert name of Bidder; if joint venture, insert complete legal names of partners]* as Principal (hereinafter called “the Principal”), and *[insert name, legal title, and address of Surety]*, authorized to transact business in *[insert name of country of Procuring Entity]*, as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[insert name of Procuring Entity]* as Obligee (hereinafter called “the Procuring Entity”) in the sum of *[insert amount in words]*, *[insert amount in figures expressed in the currency of the Purchaser’s Country or the equivalent amount in an international freely convertible currency]* for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written Bid to the Procuring Entity dated the *[number]* day of *[month]*, *[year]*, for the construction of *[insert name of Contract]* (hereinafter called the “Bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

- (1) withdraws its Bid during the period of bid validity specified in the Form of Bid; or
- (2) refuses to accept the correction of its Bid Price, pursuant to ITB Sub-Clause 28.2; or
- (3) having been notified of the acceptance of its Bid by the Procuring Entity during the period of Bid validity;
 - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
 - (b) fails or refuses to furnish the Performance Security in accordance with the Instructions to Bidders;

then the Surety undertakes to immediately pay to the Procuring Entity up to the above amount upon receipt of the Procuring Entity’s first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation shall remain in full force and affect up to and including the date 28 days after the date of expiration of the Bid validity as stated in the Invitation to Bid or extended by the Procuring Entity at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this *[insert number]* day of *[month]*, *[year]*

Principal: _____

Surety:

Corporate Seal (where appropriate)

[insert signature(s) of authorized representative(s)]

[insert signature(s) of authorized representative(s)]

[insert printed name and title]

[insert printed name and title]

Performance Bank Guarantee (Unconditional)

[The bank/successful Bidder providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if the Procuring Entity requires this type of security.]

[insert bank's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Procuring Entity]*

Date: *[insert date]*

PERFORMANCE GUARANTEE No.: *[insert Performance Guarantee number]*

We have been informed that *[insert name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[insert reference number of the Contract]* dated with you, for the execution of *[insert name of Contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Contractor, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of (*[insert amount in words]*), *[insert amount in figures]* such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than twenty-eight days from the date of issuance of the Taking-Over Certificate, calculated based on a copy of such Certificate which shall be provided to us, or on the *[insert number day of [insert month], [insert year]*, whichever occurs first. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

[signature(s) of an authorized representative(s) of the Bank]

Performance Bond

[The Surety/successful Bidder providing the Bond shall fill in this form in accordance with the instructions indicated in brackets, if the Procuring Entity requires this type of security]

By this Bond, *[insert name and address of Contractor]* as Principal (hereinafter called “the Contractor”) and *[insert name, legal title, and address of surety, bonding company, or insurance company]* as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[insert name and address of Procuring Entity]* as Obligee (hereinafter called “the Procuring Entity”) in the amount of *[insert amount of Bond]* *[insert amount of Bond in words]*, for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Contractor and the Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

Whereas the Contractor has entered into a Contract with the Procuring Entity dated the *[insert number]* day of *[insert month]*, *[insert year]* for *[insert name of Contract]* in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.

Now, therefore, the Condition of this Obligation is such that, if the Contractor shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise it shall remain in full force and effect. Whenever the Contractor shall be, and declared by the Procuring Entity to be, in default under the Contract, the Procuring Entity having performed the Procuring Entity’s obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- (1) complete the Contract in accordance with its terms and conditions;
or
- (2) obtain a Bid or bids from qualified bidders for submission to the Procuring Entity for completing the Contract in accordance with its terms and conditions, and upon determination by the Procuring Entity and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Procuring Entity and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term “Balance of the Contract Price,” as used in this

paragraph, shall mean the total amount payable by the Procuring Entity to the Contractor under the Contract, less the amount properly paid by the Procuring Entity to the Contractor; or

- (3) pay the Procuring Entity the amount required by the Procuring Entity to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.

The Surety shall not be liable for a greater sum than the specified penalty of this Bond.

Any suit under this Bond must be instituted before the expiration of one year from the date of issuance of the Certificate of Completion.

No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Procuring Entity named herein or the heirs, executors, administrators, successors, and assigns of the Procuring Entity.

In testimony whereof, the Contractor has hereunto set its hand and affixed its seal, and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its legal representative, this *[insert day]* day of *[insert month]*, *[insert year]*.

Signed by *[insert signature(s) of authorized representative(s)]*
on behalf of *[name of Contractor]* in the capacity of *[insert title(s)]*

In the presence of *[insert name and signature of witness]*
Date *[insert date]*

Signed by *[insert signature(s) of authorized representative(s) of Surety]*
on behalf of *[name of Surety]* in the capacity of *[insert title(s)]*

In the presence of *[insert name and signature of witness]*
Date *[insert date]*

Bank Guarantee for Advance Payment

The bank/successful bidder providing the Guarantee shall fill in this form in accordance with the instructions indicated in brackets, if an Advance Payment is to be provided under the Contract

[insert Bank's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Procuring Entity]*

Date: *[insert date]*

ADVANCE PAYMENT GUARANTEE No.: *[insert number]*

We have been informed that *[insert name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with you, for the execution of *[insert name of contract and brief description of Works]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment is to be made against an advance payment guarantee in the sum or sums indicated below.

At the request of the Contractor, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the Advance Payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the Advance Payment referred to above must have been received by the Contractor on its 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 Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the Interim Payment Certificate indicating that eighty (80) percent of the Contract Price has been certified for payment, or on the *[insert number]* day of *[insert month]*, *[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 458.

[insert signature(s)) of authorized representative(s) of bank]