

## SHOPPING FOR WORKS

## REQUEST FOR QUOTATION (RFQ)

Project Title: **Contract for the Construction of Apartment Building Efficiency Retrofits (AER) – Viti**

**Employer: Millennium Foundation Kosovo (“MFK”)**

Contract Ref: **RFQ / 2021/018**

Date of Issue of Request: **07 September 2021**

Sir/Madam:

1. Millennium Foundation Kosovo (“MFK”) is the entity created by the Government of Republic of Kosovo (“Government”) to manage and implement the activities contained in the Millennium Challenge Threshold Program agreement (“Threshold Program agreement”) entered into between the Government and the Millennium Challenge Corporation (“MCC”) on behalf of the United States of America. Accordingly, Millennium Foundation Kosovo intends to procure the works for which details are provided below (**Section 1 and 2**).
2. MFK (Employer) hereby requests you to submit a quotation for the following works:

**Works Contract for the Construction of Apartment Building Efficiency Retrofits (AER) – Viti**

The number and identification of lots (contracts)comprising this RFQ are:

**2** **lots as follows**:

**Lot 1. MAB "Blloku"**

**Lot 2. MAB Complex "Kroni i Binqes"**

If you, however, have been associated with the individual or firm that prepared the design, specifications, or engaged in the preparation of the Project or firm that will provide supervision of the Works, you shall be disqualified from participation in this procurement.

To assist in the preparation of your price quotation, the necessary specifications, bill of quantities and construction drawings, form for submitting the quotation and a draft contract form are enclosed.

RFQ documents consisting of detailed specifications, drawings and a Bill of Quantities (BoQ) were prepared and are provided to the Bidders. Bidders shall carefully examine the RFQ Documents and shall verify field conditions in order to determine that the Work can be performed in accordance with the design. The selected Bidder must notify Employer of any discrepancies, conflicts, or concerns with the RFQ Documents before commencing Work.  Should the selected Bidder fail to notify Employer of any potential errors, conflicts, discrepancies, or concerns, Bidder expressly waives any claims for damages or increases to the Contract Sum and Contract Time resulting from any required correction, modification, or accommodation to relieve the design concern. The selected Bidder shall be responsible for the implementation of any design change during the execution of works based on actual field conditions and for the preparation of design modifications and relevant revised construction drawings, subject to the approval of the Employer. Bidders shall consider this in their quotation.

1. Bidders are being invited for individual lots. Bidder can bid for one or two lots, however he can be awarded with only one Lot.

In case the bidders have been determined to have the highest combined technical and financial score in both Lots, bidder will be awarded with contract for lot offering the most favorable to overall solution after taking account of all quotes.

The second lot will be awarded to the second ranked bidder in a row.

Each lot will form a separate contract and the quantities indicated for different lots will be indivisible. The bidder must offer the whole of the quantity or quantities indicated for each lot. Under no circumstances must bidders be considered for part of the quantities required.

1. Please note that only electronic quotation **shall** be accepted.
2. **The deadline for price quotation submission is:**

**Date: 22 September 2021**

**Time: 14:00 hours p.m. (Kosovo Time)**

1. Please submit your quotation -signed by an authorized representative- **ONLY** via the Dropbox link provided below, with the name of the uploaded file as follows: **" No. of Lot which you are applying *(example: LOT 1, LOT 2)* & *Your Company Name –* email address “**.

The File request link (Dropbox link) for submission of quotations is as follows:

<https://www.dropbox.com/request/RwoGDK1zynR7jCwehIvK>

* The Bidder shall use this, and only this, link to submit its quotation.
* Any quotations received by the MFK after the deadline for submission of quotations shall be declared late and rejected.
* The quotation shall be submitted via the File Request Link only. Quotation submitted by email shall not be accepted. Also, the Quotation shall be submitted by the quotation submission deadline. A Bidder who submits only part of their quotation via the File Request Link and any other required parts of their quotation via email or hard copy shall have its Quotation rejected.

The MFK shall not be responsible for misplaced or mis-sent quotation submitted not using the File Request Link. This circumstance may be cause for quotation rejection.

* The File Request Link shall automatically expire on the Quotation submission deadline, specified in clause number 5. No extension shall be provided after the expiry.
* All submitted documents are required to be in pdf or Microsoft Word or Excel formats as appropriate. No compressed files or folders are accepted, thus documents submitted in any archived and/or compressed format (compressed by WinZip - including any application of the zip family-, WinRAR, 7z, 7zX, or any other similar formats) shall not be accepted.
* All submitted documents ARE NOT REQUIRED to be password-protected, but may be protected at the bidder’s discretion. Bidders who choose to password-protect their quotation can do so to protect against inadvertent untimely opening of its quotation, but at their own responsibility for providing the correct password as specified below. If a bidder fails to provide the correct password that opens the files so its relevant contents can be announced by the deadline provided in the clause number 5., their quotation shall be rejected. Bidders cannot provide this password via the File Request Link, but should be sent to the email address indicated below.
* Only for Bidders who choose to password-protect their quotation: Instructions on how to password-protect pdfs in Adobe Acrobat can be accessed from: <https://helpx.adobe.com/acrobat/using/securing-pdfs-passwords.html>. (If you only have Adobe Reader, it is advised that a free program like PDFMate be downloaded and installed. Instructions on how to password-protect pdfs in PDFMate can be accessed from: <http://www.pdfmate.com/feature-encrypt.html>)
* Only for Bidders who choose to password-protect their quotation: Instructions on how to password-protect a Microsoft Word (or Excel) document can be found at: <https://support.office.com/en-us/article/add-or-remove-protection-in-your-document-workbook-or-presentation-05084cc3-300d-4c1a-8416-38d3e37d6826>.
* Only for Bidders who choose to password-protect their quotation: *The password for the Quotation should be sent no earlier than* *one day before the submission deadline and no later than* ***15 minutes*** *earlier than the submission deadline to the following email address:* *procurement@millenniumkosovo.org.* A Quotations shall not be formally opened and the Quotations shall be rejected if the password reaches the afore-stated email after the stated date and time. It should be noted that the password is deemed submitted at the time and date when it is received at the email address, not when it is sent. Bidders are therefore encouraged to send the password well before the Quotations submission deadline. If a Bidder provides an incorrect password and fails to provide the correct password by the end of the formal Bid Opening, their Bid shall be rejected. Case-sensitive passwords should be sent as is, with the cases obvious.
* Each uploaded document (either as part, or whole, of the Bid) shall not exceed 10GB each.
* Bidders are informed that the capability of their internet bandwidth will determine the speed at which their Quotations are uploaded via the File Request Link. Bidders are therefore advised to commence the process of uploading their Quotations via the File Request Link in good time before the Quotations submission deadline. As noted above, this link will expire at the bid closing time, and cannot be reopened under any circumstances.

Instruction for uploading your submission:

* 1. Click of this link/type this link correctly in a browser.
  2. Click on **Choose file** (your quotation and all relevant documents and click upload)
  3. Click on **+Add another file** (Optional, only if you have more than one file and so on for other files)
  4. Enter your: **First name, Last name and Email address**
  5. Click **Upload**
  6. Done

1. This requirement is open to eligible bidders as defined in the MCC Program Procurement Guidelines (<https://www.mcc.gov/resources/doc/program-procurement-guidelines>). Bidders will undergo eligibility verification during the evaluation process, and throughout the life of the contract, in accordance with MCC Guidance on Excluded Parties Verification Procedure.
2. Documentary evidence of the Bidder’s qualifications;
   1. The Bidder must have current business registration with business details (Company Registration Certificate).
   2. The Bidder must have Minimum construction turnover of € 1,000,000 equivalent to EURO calculated as total certified payments received for contracts in progress or completed, within last three (3) years, (fill the Form EXP-1: Construction Turnover as provided in this document) and
   3. for Lot 1- 2: Participation as contractor, management contractor, or subcontractor within the last 5 years prior to the Bid submission deadline in projects that have been successfully and substantially completed or ongoing projects that have been substantially completed (substantially means the contract is 60% or more completed) in (Fill the Form EXP-2: Specific Construction Experience in Key Activities as provided in this document):

* at least 3 contracts dealing with retrofit construction works in existing buildings, each with a value of at least € 50,000 or one (1) contract with a value of at least € 150.000.00 in the last 5 years.
* at least 3 contracts dealing with energy efficiency measures implementation in existing buildings, each with a value of at least € 50,000 or one (1) contract with a value of at least € 150.000 in the last 5 years.
* at least 1 contract dealing with retrofit construction works in multi-family apartment buildings with a value of at least € 150.000 in the last 5 years.

Fill the Form EXP-2: Specific Construction Experience in Key Activities.

The determination shall be based upon an examination of the documentary evidence of the Bidder’s qualifications submitted by the Bidder, the Bidder’s record of past performance, a review of references, and any other source at the Employer’s discretion. An affirmative determination of qualification shall be a prerequisite for award of the Contract to the Bidder.

1. The bidder must demonstrate it has **personnel** that meet the following requirements.

**Key Personnel**

###### For **Lot 1** the Bidder must demonstrate that it has, at the minimum, the key personnel as follows indicating the gender of key personnel with the aim of reaching a 40% female employment target:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Nr. | Key Personnel | Number | Minimum Qualification | Minimum Experience |
| 1 | Project manager | 1 | * University degree in architecture or civil engineering * Working knowledge of local languages and good command of English. | 15 years of experience in construction supervision and site and project management. |
| 2 | Site Manager | 1 | * University degree in architecture or civil/construction engineering. * Good command of English. | 10 years of experience in building construction supervision and implementation of energy efficiency measures. |
| 3 | Energy Expert | 1 | * University degree in architecture or engineering * Building Energy Auditor as to Kosovo national register | 7 years of experience in energy efficiency design and implementation of energy efficiency measures, including experience in energy audits. |
| 4 | Architect | 1 | * University degree in architecture | 10 years of experience in architectural design and supervision of building construction. |
| 5 | Construction /Civil Engineer | 1 | * University degree in civil/construction engineering | 10 years of experience in structural design and supervision of building construction. |
| 6 | Electrical Engineer | 1 | * University degree in electrical engineering | 10 years of experience in design and supervision of building’s electrical components construction. |
| 7 | Mechanical Engineer | 1 | * University degree in mechanical engineering | 10 years of experience in structural design and supervision of building construction. |
| 8 | Environmental Expert | 1 | * University degree in environmental engineering or relevant discipline | 10 years of experience in the implementation of health and safety duties on construction projects and supervision. |
| 9 | Health and Safety Expert | 1 | * Certificate for passing the professional exam on Occupational Health and Safety" issued by Ministry of Labor and Social Welfare | At least 3 years of experience in the implementation of health and safety duties on construction projects and supervision. |

###### For **Lot 2** the Bidder must demonstrate that it has, at the minimum, the key personnel as follows indicating the gender of key personnel with the aim of reaching a 40% female employment target:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Nr. | Key Personnel | Number | Minimum Qualification | Minimum Experience |
| 1 | Project manager | 1 | * University degree in architecture or civil engineering * Working knowledge of local languages and good command of English. | 15 years of experience in construction supervision and site and project management. |
| 2 | Site Manager | 1 | * University degree in architecture or civil/construction engineering. * Good command of English. | 10 years of experience in building construction supervision and implementation of energy efficiency measures. |
| 3 | Energy Expert | 1 | * University degree in architecture or engineering * Building Energy Auditor as to Kosovo national register | 7 years of experience in energy efficiency design and implementation of energy efficiency measures, including experience in energy audits. |
| 4 | Architect | 1 | * University degree in architecture | 10 years of experience in architectural design and supervision of building construction. |
| 5 | Construction /Civil Engineer | 1 | * University degree in civil/construction engineering | 10 years of experience in structural design and supervision of building construction. |
| 6 | Electrical Engineer | 1 | * University degree in electrical engineering | 10 years of experience in design and supervision of building’s electrical components construction. |
| 7 | Environmental Expert | 1 | * University degree in environmental engineering or relevant discipline | 10 years of experience in the implementation of health and safety duties on construction projects and supervision. |
| 8 | Health and Safety Expert | 1 | * Certificate for passing the professional exam on Occupational Health and Safety" issued by Ministry of Labor and Social Welfare | At least 3 years of experience in the implementation of health and safety duties on construction projects and supervision. |

1. **LOT 1 -**Technical Evaluation Criteria

|  |  |  |  |
| --- | --- | --- | --- |
| **S/N** | Criteria | Criteria Rating | Score |
| **1** | Technical Specific Requirements |  |  |
| 1.1 | **Company Profile and maturity in the market**  Minimum scoring requirements: Bidder (in a case of a joint venture the bidder means the leader) has been in the market providing similar services for 3 years or more  Maximum scoring requirements: Bidder (in a case of a joint venture the bidder mean the leader) has been in the market providing similar services for more than 10 years | From 3 to 5 years - 9 points.  From 6 to 9 years - 11 points.  More than 10 years – 14 points | **Max 14** |
| 1.2 | **Company Experience**  Participation as the contractor, management contractor, or subcontractor, in at least 1 contract within the last 5 years, each with a value of at least 150,000 €, that have been successfully and substantially completed and that are similar to the proposed Works, in energy efficiency retrofits. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section 1. Technical Specifications. | 7 points per reference  Max. 5 references to be provided using the Form EXP-2. | **Max 35** |
| 1.3 | **Experience with international development agencies/donors**  Participation as the contractor, management contractor, or subcontractor, in at least 1 contract within the last 5 years, each with a value of at least 150,000, financed by the international development agencies in Kosovo or Western Balkans, that are similar to the proposed Works in energy efficiency retrofits. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section 1. Technical Specifications. | 6 points per reference  Max. 4 references to be provided using the Form EXP-2. | **Max 24** |
| 1.4 | Key Personnel  Minimum Scoring requirements: Bidder provides key personnel list fulfilling the requirements as per paragraph no. 9. | For each woman in key personnel positions 3 points of scoring will be granted. | **Max 27** |
| ***Total Points*** | | | **100** |
| The lowest evaluated Financial Offer (Fm) is given the maximum financial score (Sf) of 100.  The formula for determining the financial scores (Sf) of all other Offers is calculated as following:  Sf = 100 x Fm/ F, in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the Offer under consideration.  The weights given to the Technical (T) and Financial (P) Offers are:  T = 40, and  P = 60  Bids will be ranked according to their combined technical (St) and financial (Sf) scores according to the formula: S = St x T% + Sf x P% | | | |

**LOT 2 -**Technical Evaluation Criteria

|  |  |  |  |
| --- | --- | --- | --- |
| **S/N** | Criteria | Criteria Rating | Score |
| **1** | Technical Specific Requirements |  |  |
| 1.1 | **Company Profile and maturity in the market**  Minimum scoring requirements: Bidder (in a case of a joint venture the bidder means the leader) has been in the market providing similar services for 3 years or more  Maximum scoring requirements: Bidder (in a case of a joint venture the bidder mean the leader) has been in the market providing similar services for more than 10 years | From 3 to 5 years - 9 points.  From 6 to 9 years - 11 points.  More than 10 years – 13 points | **Max 13** |
| 1.2 | **Company Experience**  Participation as the contractor, management contractor, or subcontractor, in at least 1 contract within the last 5 years, each with a value of at least 150,000 €, that have been successfully and substantially completed and that are similar to the proposed Works, in energy efficiency retrofits. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section 1. Technical Specifications. | 7 points per reference  Max. 5 references to be provided using the Form EXP-2. | **Max 35** |
| 1.3 | **Experience with international development agencies/donors**  Participation as the contractor, management contractor, or subcontractor, in at least 1 contract within the last 5 years, each with a value of at least 150,000, financed by the international development agencies in Kosovo or Western Balkans, that are similar to the proposed Works in energy efficiency retrofits. The similarity shall be based on the physical size, complexity, methods/technology or other characteristics as described in Section 1. Technical Specifications. | 7 points per reference  Max. 4 references to be provided using the Form EXP-2. | **Max 28** |
| 1.4 | Key Personnel  Minimum Scoring requirements: Bidder provides key personnel list fulfilling the requirements as per paragraph no. 9. | For each woman in key personnel positions 3 points of scoring will be granted. | **Max 24** |
| ***Total Points*** | | | **100** |
| The lowest evaluated Financial Offer (Fm) is given the maximum financial score (Sf) of 100.  The formula for determining the financial scores (Sf) of all other Offers is calculated as following:  Sf = 100 x Fm/ F, in which “Sf” is the financial score, “Fm” is the lowest price, and “F” the price of the Offer under consideration.  The weights given to the Technical (T) and Financial (P) Offers are:  T = 40, and  P = 60  Bids will be ranked according to their combined technical (St) and financial (Sf) scores according to the formula: S = St x T% + Sf x P% | | | |

For Key Personnel, Bidders should include a Statement on the availability of Key personnel, clearly stating positions and available key personnel. For each proposed person, the statement shall include personal details (first name, last name), gender, qualifications and experience. Statement can be in free format (no template predefined) signed and stamped by the Bidder.

In the personnel section, the Bidder should specify the gender of all proposed personnel, and it should indicate what percentage of proposed personnel are female. If this figure is less than 40%, the Bidder should indicate what actions it will undertake towards reaching the 40% target.

The MCA Entity retains the right to request and check references for each key personnel listed.

1. Bidder shall submit only one quotation. Your Quotation must be typed or written in indelible ink and shall be **signed by you or your authorized representative**. Without a signature in your Form of Quotation, your quotation will not be considered further.
2. You are required to submit the **authorization letter for the authorized representative** of the bidder signing the quotation, demonstrating that the person signing has been duly authorized to sign.
3. All documents submitted shall be in English. Any quotation which is not submitted in English, or is not accompanied by a certified translation, will be rejected.
4. In evaluating the quotations, the Employer will adjust for any arithmetical errors as follows:

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

(b) where there is a discrepancy between the total price in the Bill of Quantities or the quoted amount indicated in the Form of Quotation, the total price in the Bill of Quantities shall govern;

(c) where there is a discrepancy between the unit rate and the line-item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern; and

(d) if you refuse to accept the correction, your quotation will be rejected.

1. Your **quotation shall be valid** for a period of **ninety (90) days from** 22 September 2021 (deadline for submission of quotations).
2. Your quotation along with qualification documents and written in English language shall be for the lump-sum contract based on the Activity Schedule***.*** Currency of quoted prices and payment shall be in EURO.
3. Offers determined to be substantially responsive to the description of the technical specifications will be evaluated by comparison of quotes, using “shopping” procurement method in accordance with MCC Program Procurement Guidelines which are provided on the MCC website (<https://www.mcc.gov/resources/doc/program-procurement-guidelines>). The Employer shall award a contract to the Bidder whose quotation has been determined to be substantially responsive to this Request for Quotation and has been determined to have the highest combined technical and financial score, including that the Bidder is determined to be qualified to perform the Contract satisfactorily.

In case the bidders have been determined to have the highest combined technical and financial score in more than one Lot then bidder will be awarded with contract for lot offering the most favorable to overall solution after taking account of all quotes. The next lot will be awarded to the second ranked bidder in a row.

A quotation is not substantially responsive if it contains material deviations or reservations to the terms, conditions, and specifications in this Request for Quotation, and it will not be considered further. The Employer will evaluate and compare only those quotations determined to be substantially responsive.

1. The Employer will conduct a **Price Reasonableness Analysis** of the prices offered for works in accordance with the MCC Program Procurement Guidelines and make an award based on the positive determination of the reasonableness of the prices offered. If the price reasonableness analysis suggests that the rates offered are significantly unbalanced or front loaded, the Employer may require the Bidder to produce a detailed price analysis for any or all items of the Activity Schedule that demonstrates the internal consistency of prices with the construction methods and schedule proposed. The Employer reserves the right to seek clarification; however, the clarification will not be used to change the Offer price. A negative determination of price reasonableness (either unreasonably high or unreasonably low) may be a reason for rejection of the Bid at the discretion of the Employer. The Bidder shall not be permitted to revise its Bid after this determination.
2. **Bid Challenges**: Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the MFK and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the MFK’s website at https://millenniumkosovo.org/work-with-us/procurment/interim-bid-challenge-system/.
3. If you withdraw your quotation during the validity period and/or refuse to accept the award of a contract when and if awarded, your bid security will be forfeited, if applicable.
4. The contract will be governed by the terms and conditions of the attached Form of Contract.
5. A **Pre-quotation meeting**

A pre-Bid conference **shall not** take place.

1. **Request for clarification** may be sent using File Request Link, no later than 13 September, 2021.

MFK shall respond by end of day 17 September, 2021.

To request clarification of this Bidding Document only, the File Request Link is:

Please submit your clarifications using this File Request Link:

<https://www.dropbox.com/request/4amJsakZpPRC4RWZ7HCk>

1. The bidder whose quotation has been accepted will be notified of the award of contract through the Letter of Acceptance issued by the Employer within 90 days from the date of submission of quotation.
2. The works shall be **completed:** For Lot 1- 2: within 10 weeks from the effective date of Contract.
3. For both Lots: The amount and currency of the Performance Security shall be 10% of the Contract Price, in Euro.
4. The Employer will not provide any Advance Payment.
5. The Contract Agreement terms and conditions are not negotiable and shall be fully accepted by the Bidder.
6. The Employer is not bound to accept any quotation submitted by the invited Bidders and may cancel the procurement process, at any time, without providing any justification to the Bidders.
7. Under MCC’s Anticorruption Policy bidders shall observe the highest standard of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting, and Remediating Fraud and Corruption in MCC Operations is applicable to all procurements involving MCC funding and can be found on the MCC website (<https://www.mcc.gov/resources/doc/policy-fraud-and-corruption>). MFK will reject a proposal for award, and will impose sanctions on parties involved, if it determines that the bidder recommended for award or any other party, has engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, the Contract.
8. Please Confirm by e-mail the receipt of this request and whether or not you will submit a price quotation.

Yours sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Mr. Petrit Selimi

CEO, Millennium Foundation Kosovo

SECTION 1 – TECHNICAL SPECIFICATIONS

**LOT 1**

* 1. Background information
  2. Table of Content
  3. FOLDER Technical Specification
  4. FOLDER Bill of Quantities
  5. FOLDER Drawings

**LOT 2**

* 1. Background information
  2. Table of Content
  3. FOLDER Technical Specification
  4. FOLDER Bill of Quantities
  5. FOLDER Drawings

Please find on the link below the Technical Specifications Folders:

<https://www.dropbox.com/sh/3uq1eb7vohn8bk6/AACSksh2_rJ29u-FbpRSXfiOa?dl=0>

**SECTION 2 – UNPRICED SCHEDULE OF ACTIVITIES**

All activities set out in the activity schedule below, must be completed within 10 weeks.

Upon completion of each activity, the Contractor shall submit the payment certificate to the Engineer for the relevant payable on achievement of the activity. The activity schedule must be in accordance and in compliance with documents under Section 1 - Technical Specifications.

**Table of activity schedules for LOT 1 and LOT 2 \***

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **No** | **Activity** | **Week**  **(from day 1 of contract startup)** | **Duration**  **(days)** | **Lump-sum price**  **without VAT**  **(EUR)** | **Lump-sum price**  **with VAT\*\***  **(EUR)** |
| 01 | 1st Construction Phase |  |  |  |  |
| 02 | 2nd Construction Phase |  |  |  |  |
| 03 | 3rd Construction Phase |  |  |  |  |
| **TOTAL** | |  |  |  |  |

\*In accordance and compliance with Drawings, Bill of Quantities, and Technical Specification

**\*\* Please consult the Section 1 (i.e., the Background information) for calculating the VAT included price.**

**FORM OF QUOTATION**

\_\_\_\_\_\_\_\_\_ (Date)

To:

**Millennium Foundation Kosovo**

Attention: Procurement Manager - MFK

Migjeni Str, no. 21 / Ex-Ljubljana Building / Floor 09, Prishtina 10000, Kosovo

Tel: + 383 38 752 110

Email: procurement@millenniumkosovo.org

We offer to execute the\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (name and number of Contract) in accordance with the Conditions of Contract (in the Form of Contract) accompanying this Quotation for the Contract Price of EURO:

LOT 1, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words and numbers)

LOT 2, \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (amount in words and numbers)

(name of currency) \_\_\_\_\_\_\_\_\_\_\_\_\_. We propose to complete the Works described in the Contract within

a period of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_weeks from the Date of Signing of the Contract.

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

We hereby confirm that this Quotation complies with the Validity of the Offer required by the Request for Quotation.

We have not been associated with the firm that prepared the design and specifications of the contract that is the subject of this request for quotation.

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name and Title of Signatory \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone Number : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email address \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Filled-in “SECTION 2 – SCHEDULE OF ACTIVITIES” should be attached to Form of Quotation.]

## Form of Contract Agreement

**Work Contract Agreement for the Construction of Apartment Building Efficiency Retrofits (AER) – Viti**

**[ Lot 1. MAB "Blloku" - Lot 2. MAB Complex "Kroni i Binqes"]**

THIS CONTRACT AGREEMENT made the day of 20

between Millennium Foundation of Kosovo (hereinafter called “the Employer”) of the one part and

of (hereinafter called “the Contractor”) of the other part.

WHEREAS, the Millennium Challenge Corporation and the Government of Republic of Kosovo on September 12, 2017 have entered into a Millennium Challenge Threshold Program Grant Agreement for Millennium Challenge Account assistance to help facilitate poverty reduction through economic growth in Kosovo in the amount of approximately forty-nine million United States dollars (US$49,000,000) (“MCC Funding”).

WHEREAS, the Government of Kosovo, acting through the MFK,intends to apply a portion of the proceeds of MCC Funding to eligible payments under the Contract.

WHEREAS, the terms of the Contract, including payments by the MFKand restrictions on the use of MCC Funding, will be subject, in all respects, to the terms and conditions of the Threshold Program Agreement and related documents.

WHEREAS, no party other than the Government of Kosovo, the MFK, and MCC shall derive any rights from the Threshold Program Grant Agreement or have any claim to the proceeds of MCC Funding.

WHEREAS, the MFK is desirous that certain works should be executed by the Contractor, and has accepted a Bid by the Contractor for the execution and completion of such works.

NOW THIS CONTRACT AGREEMENT WITNESSETH as follows:

In this Contract Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Contract.

In consideration of the payments to be made by the MFK to the Contractor as provided in the Contract, the Contractor hereby covenants with the MFK to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

The MFK hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects therein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof, the parties hereto have caused this Contract Agreement to be executed the day and year first before written.

Binding Signature of MFK

Binding Signature of Contractor

**General Conditions of Contract**

**A. General**

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| 1. Definitions | Capitalized terms used in this Contract and not otherwise defined have the meanings given such terms in the Threshold Program or related document. Unless the context otherwise requires, the following words whenever used in this Contract have the following meanings:   1. “Activity Schedule” means the priced and completed Activities Schedule forming part of the Bid 2. “Agreement” means that portion of this Contract entitled Agreement that is signed by authorized representatives of the Employer and the Contractor. 3. “Applicable Law” means the laws and any other instruments having the force of law in the Employer’s country, which from time to time are in force and effect. 4. “Associate” means any entity that is a member of the Association that forms the Consultant. A Sub-Consultant is not an Associate. 5. “Association” or “association” or “Joint Venture” or “joint venture” means an association of entities that forms the Consultant, with or without a legal status distinct from its members. 6. “Bid” means the bid for the construction of the Works submitted by the Contractor and accepted by the Employer and that forms a part of this Contract. 7. “Certificate of Completion” means the certificate to be issued by the Engineer upon completion of the Works 8. “Compensation Events” means those events defined as such in GCC Clause 40. 9. “Completion Date” means the date of completion of the Works as certified by the Engineer. 10. “Construction Phase Records” means a list of all checklist items (document template) provided and used by the Engineer to conduct inspection and testing of phase works to verify proper installation of materials, equipment and systems. 11. “Contract” means this agreement between the Employer and the Contractor to execute, complete, and maintain the Works and consists of the documents listed in GCC Sub-Clause 2.2, as the same may be amended, modified, or supplemented from time to time in accordance with the terms hereof and thereof. 12. “Contract Price” means the price stated in the Contract Agreement and thereafter as adjusted in accordance with the provisions of this Contract. 13. “Contractor” has the meaning given such term in the initial paragraph of the Agreement. 14. “Day” means a calendar day. 15. “Defect” means any part of the Works not completed in accordance with this Contract. 16. “Defects Liability Certificate” means the certificate issued by the Employer upon correction of Defects by the Contractor. 17. “Defects Liability Period” means the period of 365 days calculated from the Completion Date. 18. “Drawings” means technical designs, calculations and other information provided or approved by the Engineer for the execution of this Contract. 19. “Employer” has the meaning given such term in the initial paragraph of the Agreement**.** 20. “Engineer” means the person (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Engineer) who is responsible for supervising the execution of the Works and administering this Contract. The Engineer is the company iC consulenten shpk, st. Gazmend Zajmi obj. Puhiza/Hy.1/Kati 2/Nr.14 Prishtinë, Sali Fazliu. 21. “Equipment” means the Contractor’s machinery and vehicles brought temporarily to the Site to construct the Works. 22. “Force Majeure” has the meaning given such term in GCC Sub-Clause 55. 23. “Environmental Health and Safety Management Plan” or “EHSMP” means the plan the Contractor shall develop, deliver, and implement in accordance with GCC Clause 59. 24. “IFC Performance Standards” means the International Finance Corporation’s Performance Standards on Environmental and Social Sustainability. 25. “Intended Completion Date” means the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date for Lot 1 – 2 for the whole works shall be 10 weeks from the Start Date. The Intended Completion Date may be revised only by the Engineer by issuing an extension of time or an acceleration order. 26. “Materials” means all supplies, including consumables, used by the Contractor for incorporation in the Works. 27. “MCC” has the meaning given such term in the recital clauses to the Agreement. 28. “MCC Funding”has the meaning given such term in the recital clauses to the Agreement. 29. “MCC Gender Policy” means the MCC Gender Policy and its amendments posted from time to time on the MCC website at [www.mcc.gov](http://www.mcc.gov). 30. “Month” means a calendar month and “monthly” refers to a calendar month. 31. “Municipality” means the Municipality of Viti 32. “Payment Certificate” means the certificate issued by the Engineer in accordance with GCC Clause 38. 33. “Performance Security” means the security to be provided by the Contractor in accordance with GCC Clause 46. 34. “Plant” means any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function. 35. “Program” has the meaning given such term in GCC Sub-Clause 23. 36. “Schedule of Key Personnel” means the schedule of key personnel employed by the Contractor, described in GCC Clause 7. 37. “Site” for LOT 1 and LOT is located at street Adem Jashari, Viti. 38. “Site Investigation Reports” means those that were included in the bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site. 39. “Site Possession Dates” means a date on which the Employer is to give possession of all or part of the Site to the Contractor in accordance with GCC Clause 16. 40. **“**Specifications” means the Technical Specifications of the Works included as part of this Contract and any modification or addition made or approved by the Engineer. 41. “Start Date” shall be the date, notified by the Engineer, when the following conditions are met: 42. The Program (GCC 23) is approved by the Engineer 43. The EHSMP (GCC 59) is approved by the Engineer 44. The Key personnel have successfully finished training (GCC 7.3.)   and when the Contractor may commence execution of the Works.   1. “Tax” and “Taxes” have the meanings given such terms in the Threshold Program or related agreement. 2. “Temporary Works” means those works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works. 3. “Variation” means an instruction given by the Engineer which varies the Works. 4. “Works” means what this Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in Section 1, Technical Specifications. |
| 1. Interpretation | 2.1 In interpreting this Contract, unless otherwise indicated:   1. “confirmation” means confirmation in writing; 2. “in writing” means communicated in written form (e.g., by mail, e-mail, or facsimile) delivered with proof of receipt; 3. except where the context requires otherwise, words indicating the singular also include the plural and words indicating the plural also include the singular; 4. the feminine means the masculine and vice versa; 5. headings are for convenience only and have no other significance; and 6. the Engineer shall provide instructions clarifying queries about the interpretation of this Contract.   2.2 The following documents are each deemed to form an integral part of this Contract and shall be interpreted in the following order of priority:   1. Agreement, 2. Bid, 3. GCC and related Annexes, 4. Technical Specifications, 5. Drawings, 6. Bill of Quantity, 7. Activity Schedule. |
| 1. Language and Law | 3.1 This Contract has been executed in the English language.  3.2 This Contract, its meaning and interpretation and the relation between the parties shall be governed by Applicable Law. |
| 1. Delegation | 4.1 The Engineer may delegate any of his duties and responsibilities to other people, after notifying the Contractor, and may cancel any delegation after notifying the Contractor. |
| 1. Communica­tions | * 1. Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing to the authorized representatives nominated in article 4.3. Subject to Applicable Law, any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the party to whom the communication is addressed, or sent by confirmed facsimile or confirmed email, in either case if sent during normal business hours of the recipient party.   2. A party may change its address for receiving notice under this Contract by giving the other party notice in writing of such change.   3. The Project Manager (Employer Representative) is:   [name, position, address, email, fax, phone number]  The Project Manager (Contractor Representative) is:  [name, position, address, email, fax, phone number] |
| 1. Subcontracting | 6.1 The Contractor may sub-contract with the approval of the Employer and Engineer, but may not assign this Contract without the approval of the Employer in writing. Sub-contracting shall not alter the Contractor’s obligations under this Contract. |
| 1. Personnel | * 1. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the Bid, to carry out the functions stated in such schedule or other personnel approved by the Engineer and Employer.   2. The Employer and Engineer 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 of Key Personnel. Proposed replacement will be obliged to attend the training mentioned in article 7.3.   3. Before commencement of any execution of works, Key Personnel must attend the training as defined in the Technical Specifications in relation to the SEEK operational framework.   4. Until such training has been undertaken, Key Personnel will not be authorized to provide any works under this Contract.   5. If the Engineer/Employer 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 this Contract. |
| 1. Employer’s and Contractor’s Risks | 8.1 The Employer carries the risks which this Contract states are Employer’s risks, and the Contractor carries the risks which this Contract states are Contractor’s risks. |
| 1. Employer’s Risks | 9.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer’s risks:   1. 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 Employer or by any person employed by or contracted to him except the Contractor.   1. The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer’s design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.   9.2 From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer’s risk except loss or damage due to   1. Defect which existed on the Completion Date, 2. an event occurring before the Completion Date, which was not itself an Employer’s risk, or 3. the activities of the Contractor on the Site after the Completion Date. |
| 1. Contractor’s Risks | 10.1 From the Start Date until the Defects Liability 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 Employer’s risks are Contractor’s risks. |
| 1. Insurance | 11.1 The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, for the following events which are due to the Contractor’s risks:   1. loss of or damage to the Works, Plant, and Materials; 2. loss of or damage to Equipment; 3. loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with this Contract; and 4. personal injury or death.   The minimum insurance amounts and deductibles shall be:   1. for the Works, Plant and Materials: 5%. 2. for loss or damage to Equipment: 5%. 3. for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract 5%.   for personal injury or death:   1. of the Contractor’s employees: 5%. 2. of other people: 5%.   11.2 Policies and certificates for insurance shall be delivered by the Contractor to the Engineer for the Engineer’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.  11.3 If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer 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 from the Contractor to the Employer.  11.4 Alterations to the terms of an insurance shall not be made without the approval of the Engineer.  11.5 Both parties shall comply with any conditions of the insurance policies. |
| 1. Eligibility; Source of Equipment, Material and Services | 12.1 The Contractor and its subcontractors, including their respective personnel and affiliates, shall at all times during the term of this Contract have the nationality of a country or territory eligible, in accordance with the Threshold Program, the MCC Program Procurement Guidelines and Annex A to this Contract (“Eligible Countries”). The Contractor or a subcontractor and their respective personnel and affiliates shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.  12.2 All Equipment, Materials, Plant and any services to be incorporate in or required for the Works shall have their origin in Eligible Countries.  12.3 For the purpose of this GCC Clause 12, “origin” means the place where the Equipment, Material or Plant have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics, purposes or utility from its underlying components. With respect to any services, the term “origin” means the place from which the services are supplied.  12.4.  All Materials and Products used and installed within the works must be delivered with the certificates proving their quality and compliance with the technical eligibility criteria of as required in the Works Requirements. For technical requirements linked-to materials or equipment that may not be included in the list of SEEK materials database, the Contractor shall request from the Engineer/Employer prior approval of using such products and the EN standards or other recognized international standards shall apply. |
| 1. Contractor to Construct the Works | 13.1 The Contractor shall construct and install the Works in accordance with the Specifications and Drawings. |
| 1. The Works to Be Completed by the Intended Completion Date | 14.1 The Contractor shall commence the execution of the Works as soon as is reasonably practicable after 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 Engineer, and shall complete the Works by the Intended Completion Date. |
| 1. Approval by the Engineer | 15.1 The Contractor shall submit Technical Specifications and Drawings showing any proposed Temporary Works to the Engineer, who is to approve them if they comply with the Technical Specifications and Drawings.  15.2 The Contractor shall be responsible for the design of any Temporary Works.  15.3 The Engineer’s approval shall not alter the Contractor’s responsibility for the design of any Temporary Works.  15.4 The Contractor shall obtain approval of third parties to the design of any Temporary Works, where required.  15.5 All Drawings prepared by the Contractor for the execution of any Temporary Works or the Works, are subject to prior approval by the Engineer before their use. |
| 1. Contractor Access to the Site | 16.1 The Site Possession Date(s) shall be the Start Date when all conditions stipulated under GCC 1 (mm) are met. |
| 1. Engineer Access to the Site | 17.1 The Contractor shall allow Employer/ MCC / Employer Implementing Consultant in SEEK project (GFA/HPC Consortium) and/or persons appointed by MCC / Employer / Engineer access to the Site and to any place where work in connection with this Contract is being carried out or is intended to be carried out. |
| 1. Instructions, Inspections and Audits | 18.1 The Contractor shall carry out all instructions of the Engineer which comply with the Applicable Law where the Site is located.  18.2 The Contractor shall permit MCC /Employer/ /Employer’s Implementing Consultant in SEEK project (GFA/HPC Consortium) and/or persons appointed by MCC/Employer to inspect the Site and/or the accounts and records of the Contractor and any subcontractors relating to the performance of this Contract, and to have such accounts and records audited by auditors appointed by MCC. |
| 1. Settlement of Disputes | 19.1 The Parties agree to use their best efforts to resolve disputes arising  under this Contract through amicable negotiations. If the Parties fail  to resolve any disagreement or dispute within thirty (30) days after the receipt by one Party of the other Party’s request for such resolution, then either the Employer or the Contractor may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.    19.2 For any disputes, controversies or claims arising between the Parties  under this Contract that cannot be resolved in negotiations between  the Parties shall be finally settled in accordance with the Rules of  Arbitration of the Alternative Dispute Resolution Centre of the  American Chamber of Commerce in Kosovo in force at the date of  request for arbitration, which rules are deemed incorporated by  reference into this clause. Such arbitration shall take place in Pristina,  Kosovo and shall be conducted in English language, and shall be the  sole and exclusive forum for the resolution of disputes, and the  decision of the arbitrator(s) shall be final and binding on the Parties.  Judgment on the award may be entered in any court having  jurisdiction thereof. |
| 1. Conflict of Interest | 20.1 The Contractor shall not engage, and shall cause its personnel as well as any subcontractors and their personnel not to engage, either directly or indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract. |
| 1. Confidentiality | 21.1 Each of the parties shall treat the details of this Contract as private and confidential, except to the extent necessary to carry out their respective obligations under this Contract or to comply with Applicable Laws. The parties shall not publish or disclose any particulars of the Works prepared by the other party without the previous agreement of the other. However, the Contractor shall be permitted to disclose any publicly available information, or, with the prior consent of the Employer in writing, information otherwise reasonably required to establish its qualifications to compete for other projects. If any dispute arises as to the necessity of any publication or disclosure of the details of this Contract, the same shall be referred to the Employer whose determination shall be final. The Contractor shall ensure that the requirements imposed on the Contractor by this Sub-Clause apply equally to all of its personnel and each subcontractor and its personnel.  21.2 The Contractor shall disclose, and shall cause its personnel as well as any subcontractor and its personnel to disclose, all such confidential and other information as may be reasonably required in order to verify the Contractor’s compliance with this Contract and to allow for this Contract’s proper implementation.  21.3 Obligations of non-disclosure do not apply to Employer Implementing Consultant in SEEK project (GFA/HPC Consortium). |
| 1. Entire Agreement | 22.1 This Contract contains all of the covenants, stipulations and provisions agreed to by the parties. No agent or representative of either party has the authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth in this Contract. |

**B. Time Control**

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| 1. Program | 23.1 The Contractor shall submit to the Engineer for approval a Program for the Works within the seven (7) days from the date of Contract signing. Program for the Works will show the general methods, arrangements, order, and timing for all the activities in the Works (the “Program”).  23.2 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.  23.3 The Contractor shall submit to the Engineer for approval an updated Program upon request by the Engineer. If the Contractor does not submit an updated Program within 7 days of the request for updated Program, the Engineer may withhold the amount 10% 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 and approved by the Engineer.  23.4 The Engineer’s approval of the Program shall not alter the Contractor’s obligations. The Contractor may revise the Program and submit it to the Engineer for approval again at any time. A revised Program shall show the effect of any Variation and Compensation Events. |
| 1. Extension of the Intended Completion Date | 24.1 The Engineer shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work in a manner that would cause the Contractor to incur additional cost. The Engineer shall also extend the Intended Completion Date if it determines an event of Force Majeure has occurred in accordance with GCC Clause 55. Any extensions that extend the original Contract duration by 25 percent or more, individually or in the aggregate, shall require the Employer’s prior approval.  24.2 The Engineer shall decide whether and by how much to extend the Intended Completion Date within 21 days of (a) the Contractor asking the Engineer for a decision upon the effect of a Compensation Event or Variation or (b) the Contractor or the Employer asking the Engineer for a decision on the occurrence of an event of Force Majeure. In each case, such request is to be in writing and shall be supplemented by 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. |
| 1. Acceleration | 25.1 When the Employer wants the Contractor to finish before the Intended Completion Date as it may have been extended, the Engineer shall obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date shall be adjusted accordingly and confirmed by both the Employer and the Contractor.  25.2 If the Contractor’s priced proposals for an acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation. |
| 1. Delays Ordered by the Engineer | 26.1 The Engineer may instruct the Contractor to delay the start or progress of any activity within the Works. |
| 1. Management Meetings | 27.1 Either the Engineer 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. Management meetings may be attended by the MCC/ Employer/ Employer Implementing Consultant in SEEK project (GFA/HPC Consortium) and/or persons appointed by MCC/Employer.  27.2 The Engineer shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Engineer either at the management meeting or after the management meeting and stated in writing to all who attended the meeting. |
| 1. Early Warning | 28.1 The Contractor shall warn the Engineer 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 Engineer 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.  28.2 The Contractor shall cooperate with the Engineer 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 Engineer. |

**C. Quality Control**

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| 1. Identifying Defects | * 1. The Engineer/MCC/Employer/ Employer Implementing Consultant in SEEK project (GFA/HPC Consortium) and/or persons appointed by MCC/Employer 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.   2. The Engineer may instruct the Contractor to search for a Defect and to uncover and test any work that the Engineer considers may have a Defect. |
| 1. Tests | 30.1 If the Engineer instructs the Contractor to carry out a test not specified in the Technical Specifications 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. |
| 1. Correction of Defects | * 1. The Defects Liability Period is 365 days and begins at Completion. The Defects Liability Period shall commence on the date of provisional acceptance.   2. The Contractor shall be responsible for making good any defect in, or damage to, any part of the works which may appear or occur during the Defects Liability Period and which: a) results from the use of defective plant or materials or faulty workmanship or design of the contractor; and/or   b) results from any act or omission of the contractor during the defects liability period; and/or;  c) appears in the course of an inspection made by, or on behalf of the Employer.   * 1. The Engineer and /or Employer shall give notice to the Contractor of any Defects before the end of the Defects Liability Period. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.   31.3 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the notice of Defect.  31.4 In case of installation of non-eligible Products and Materials, Contractor will be obliged to remove such Products and Materials and install eligible ones on its own expenses.  31.5 After Provisional Acceptance and without prejudice to the defects liability referred to in Article 31.1, the Contractor shall no longer be responsible for risks which may affect the works and which result from causes not attributable to it. However, the Contractor shall be responsible as from the date of Provisional Acceptance for the soundness of the construction, as laid down in the law of the country in which the works are executed. |
| 1. Uncorrected Defects | 32.1 If the Contractor has not corrected a Defect within the time specified in the notice of Defect, the Employer shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount. |

**D. Cost Control**

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| 1. Activity Schedule | 33.1 The Contractor shall provide updated Activity Schedules within 7 days of being instructed to do so by the Engineer. The activities on the Activity Schedule shall be coordinated with the activities on the Program.  33.2 The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately. |
| 1. Changes of Program | 34.1 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor’s own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule.  34.2 If requested by the Engineer, the Contractor shall provide the Engineer with a detailed cost breakdown of any rate in the Activity Schedule. |
| 1. Variations | 35.1 All Variations shall be included in updated Programs and Activity Schedule produced by the Contractor. |
| 1. Payments for Variations | 36.1 The Contractor shall provide the Engineer with a quotation for carrying out the Variation when requested to do so by the Engineer. The Engineer shall assess the quotation, which shall be given within seven days of the request or within any longer period stated by the Engineer and before the Variation is ordered.  36.2 If the Contractor’s quotation is unreasonable, the Engineer may order the Variation and make a change to the Contract Price, which shall be based on the Engineer’s own forecast of the effects of the Variation on the Contractor’s costs.  36.3 If the Engineer decides that the urgency of varying the work would prevent a quotation from being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.  36.4 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning in accordance with GCC Clause 28. |
| 1. Cash Flow Forecasts | 37.1 When the Program and Activity Schedule is updated, the Contractor shall provide the Engineer with an updated cash flow forecast. |
| 1. Payment Certificates | * 1. The Contractor shall submit to the Engineer monthly statements of the estimated value of the work executed less the cumulative amount certified previously. Payment certificate will be accompanied with Construction Phase Records (CPR).   2. The Engineer shall check the Contractor’s monthly statement and certify the amount to be paid to the Contractor which certified amount shall be set forth in a Payment Certificate issued by the Engineer.   3. The value of work executed shall be determined by the Engineer.   4. The value of work executed shall comprise the value of completed activities in the Activity Schedule.   5. The value of work executed shall include the valuation of Variations and Compensation Events.   6. The Engineer 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. |
| 1. Payments | 39.1 Payments shall be adjusted for deductions for retention. The Employer and/or Municipality shall pay, or cause to be paid to, the Contractor the amounts certified by the Engineer within 28 days of the date of each Payment Certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the rate of interest of 0.05%.  39.2 If an amount certified is increased in a later Payment Certificate or as a result of arbitration, the Contractor shall be paid interest on the delayed payment.  39.3 Unless otherwise stated, all payments and deductions shall be paid or charged in the proportions of currencies comprising the Contract Price.  39.4 Items of the Works for which no rate or price has been entered in shall not be paid for by the Employer and shall be deemed covered by other rates and prices in this Contract. |
| 1. Compensation Events | 40.1 The following shall be “Compensation Events”:   1. The Employer does not give access to a part of the Site by the Site Possession Date. 2. The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under this Contract. 3. The Engineer orders a delay or does not issue Drawings, Technical Specifications, or instructions required for execution of the Works on time. 4. The Engineer instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects. 5. The Engineer unreasonably does not approve a sub-contract to be let. 6. Ground conditions are substantially more adverse than could reasonably have been assumed before the acceptance of the bid, from information available publicly and from a visual inspection of the Site. 7. The Engineer gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons. 8. Other contractors (other than subcontractors), public authorities, utilities, or the Employer does not work within the dates and other constraints stated in this Contract, and they cause delay or extra cost to the Contractor. 9. The effects on the Contractor of any of the Employer’s Risks. 10. The Engineer unreasonably delays issuing a Certificate of Completion.   40.2 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 Engineer 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.  40.3 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 Engineer, and the Contract Price shall be adjusted accordingly. If the Contractor’s forecast is deemed unreasonable, the Engineer shall adjust the Contract Price based on the Engineer’s own forecast. The Engineer shall assume that the Contractor shall react competently and promptly to the event.  40.4 The Contractor shall not be entitled to compensation to the extent that the Employer’s interests are adversely affected by the Contractor’s not having given early warning or not having cooperated with the Engineer. |
| 1. Taxes | 41.1 This Contract is partially tax exempted. Payments done under the Contract will be executed from two source of funds. Part of the payments will be done by Employer and part of the payments will be done by the Municipality.  41.2 Payment certificates for part of the works to be borne by the Municipality, Contractor shall be responsible for the payment of all charges and taxes in respect of income including value added tax, all in accordance with and subject to the provisions of the income tax laws and regulations in force and all amendments thereto.  41.3 Payment certificates for part of the works to be borne by the Employer are exempt from taxes, duties, levies, contributions or other charges imposed under Laws currently or hereafter in effect in the Employer’s Country (separately “tax” and collectively “taxes”) during the effective term of the Threshold Program Agreement, including, without limitation:  (a) income taxes, withholding taxes, and other profit or business taxes imposed on individuals, organizations, or enterprises (other than nationals or permanent residents of the Employer’s Country);  (b) customs duties, tariffs, import and export taxes or other taxes imposed on import, usage and re-export of goods, (including Contractor’s Equipment and spare parts thereof, Plant, Materials and supplies imported into the Employer’s Country for purposes of the Contract), services or personal items (including personal automobiles) to be used in connection with the execution of the Works or for usage by the Contractor’s Personnel (or their family members) who are not nationals or permanent residents of the Employer’s Country and are in the Employer’s Country for the purpose of the execution of the Works; and  (c) sales tax, valued added tax, excise tax, property (real or personal) transfer tax, taxes on the ownership, possession or use of property (real or personal), and other similar charges on any transactions involving goods, works or services.  41.4 As provided for under the terms of the Threshold Program Agreement, the Contractor’s local staff and labor (nationals or permanent residents of the Employer’s Country) will be liable to pay personal income taxes in the Employer’s Country in respect of such of their salaries and wages as are chargeable under the Laws for the time being in force, and the Contractor shall perform such duties in regard to such deductions thereof as may be imposed on him by such Laws.  41.5 The Contractor, each subcontractor and their respective personnel shall pay all taxes levied under applicable Laws. In no event shall the Employer be responsible for the payment of any taxes. |
| 1. Currencies | 42.1 Unless otherwise specified in this contract, all references to currency, and monetary values set forth herein shall mean Euro (€) and all payments hereunder shall be made in Euro. |
| 1. Retention | 43.1 The Employer shall retain 10% from each Contractor’s payment dues until completion (retention money).  43.2 On completion of the whole of the Works, total amount retained (retention money) shall be repaid to the Contractor in substitute with an “on demand” bank guarantee in a form and issued by a bank acceptable to the Employer on the amount of amount retained. Retention guarantee shall expire no later than twenty-one (28) days following the date of issuance of the Defects Liability Certificate in accordance with the terms of the Contract.  43.3. When the Defects Liability Period has passed and the Employer has certified that all Defects notified to the Contractor before the end of the Defects Liability Period have been corrected, bank guarantee will be returned to the Contractor. |
| 1. Liquidated Damages | 44.1 The Contractor shall pay liquidated damages to the Employer for each day that the Completion Date is later than the Intended Completion Date. The liquidated damages for the whole of the Works are set at an amount of 300 EURO per calendar day. The total amount of liquidated damages shall not exceed 10% of the final Contract Price. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor’s liabilities  44.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Engineer 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. |
| 1. Performance Security | * 1. The Performance Security shall be provided to the Employer no later than fourteen (14) days of signature of Contract by both Contracting Parties and shall be issued in the amount of 10% of Contract Price**,** in a form and by a bank acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable.   2. The Performance Security shall be held against payment to the Employer for any loss resulting from the Contractor's failure to perform its obligations under the Contract.   3. No payments shall be made in favor of the Contractor prior to the provision of the Performance Security. The Performance Security shall be valid minimum 28 days from the date of issue of the Defects Liability Certificate. |
| 1. Cost of Repairs | 46.1 Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Liability 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**

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| 1. Completion (Provisional Acceptance) | 47.1 The Contractor shall request the Engineer to issue a Certificate of Completion of the Works (Provisional Acceptance Certificate) and the Engineer shall do so upon deciding that the work have satisfactorily passed the tests on completion and a certificate of provisional acceptance of the works can be issued.  47.2. The Contractor may apply for a Certificate of Completion of the Works (Provisional Acceptance Certificate) as soon as works have been finished in the Contractor's opinion, and are complete and ready for provisional acceptance. Enclosed to the Contractor's application for Certificate of Completion of the Works is Final Installation Report with proofs of quantity and quality.  47.3. The Engineer shall within 15 days after the receipt of the Contractor's application for Certificate of Completion of the Works either:  a) issue the Certificate to the Contractor with a copy to the Employer stating, where appropriate, its reservations, and, inter alia, the date on which, in its opinion, the works were completed in accordance with the Contract and ready for provisional acceptance; or  b) reject the application giving its reasons and specifying the action which, in its opinion, is required of the contractor for the certificate to be issued.  47.4. Upon provisional acceptance of the works, the Contractor shall dismantle and remove temporary structures as well as materials no longer required for use in connection with the implementation of the Contract. It shall also remove any litter or obstruction and redress any change in the condition of the site as required by the Contract. | |
| 1. Taking Over | 48.1 The Employer shall take over the Site and the Works within seven days of the Engineer’s issuing a Certificate of Completion and Handover Protocol. | |
| 1. Final Account | * 1. The Contractor shall supply the Employer with a detailed account of the total amount that the Contractor considers payable under this Contract before the end of the Defects Liability Period.   2. The Employer shall certify any final payment that is due to the Contractor within 15 days of receiving the Contractor’s account if it is correct and complete. If it is not, the Employer shall issue within 15 days a schedule that states the scope of the corrections or additions that are necessary.   3. Upon the expiry of the Defect Liability Period, and when all defects or damage have been rectified, the Employer shall issue to the Contractor a final acceptance certificate stating the date on which the Contractor completed its obligations under the Contract. The works shall not be considered as completed until the final acceptance certificate has been signed by the Employer. | |
| 1. Drawings, Operating and Maintenance Manuals | 50.1 “As built” Drawings shall be supplied by the Contractor to the Engineer, in hard copy form and substance satisfactory to the Engineer, together with the handover document. This will as minimum include 3 hard copies, including e-version of the same.  50.2 If operating and maintenance manuals are required, the Contractor shall supply them to the Engineer, in form and substance satisfactory to the Engineer, as part of the Handover documents. This will as minimum include 3 hard copies, including e-version of the same.  50.3 If the Contractor does not supply the Drawings and/or manuals by the requested dates**,** or they do not receive the Engineer’s approval, the Engineer shall withhold the amount 20% from payments due to the Contractor. | |
| 1. Termination | 51.1 The Employer or the Contractor may terminate this Contract if the other party causes a fundamental breach of this Contract.  51.2 Fundamental breaches of Contract shall include, but shall not be limited to, the following:   1. 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 Engineer; 2. the Engineer instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 days; 3. the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation; 4. a payment certified by the Engineer is not paid by the Employer or Municipality, as the case might be, to the Contractor within 28 days of the date of the Engineer’s issuance of a Payment Certificate; 5. the Engineer / Employer gives notice that failure to correct a particular Defect is a fundamental breach of this Contract and the Contractor fails to correct it within a reasonable period of time determined by the Engineer / Employer; 6. the Contractor does not maintain a Performance Security, which is required in accordance with this Contract; 7. 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; 8. the Contractor, in the judgment of the Employer, has, directly or through an agent, engaged in any coercive, collusive, corrupt, fraudulent, obstructive or prohibited practices (as defined in this Contract) in competing for or in the performance of this Contract or another MCC-funded contract; and 9. the Contractor, in the judgment of the Employer or MCC, fails to perform its obligations relating to the use of funds set out in Annex to this Contract entitled “Annex: Additional Provisions” (which such termination will obligate the Contractor to repay any and all funds so misused within a maximum of 30 days after termination).   51.3 When either party to this Contract gives notice of a breach of Contract to the Engineer for a cause other than those listed under GCC Sub-Clause 52.2, the Engineer shall decide whether the breach is fundamental or not.  51.4 In addition to termination of this Contract for a fundamental breach in accordance with GCC Sub-Clauses 52.1 through 52.3, if the execution of substantially all of the Works in progress is prevented for a continuous period of 180 days by reason of an event of Force Majeure as determined by the Engineer in accordance with GCC Clause 55, then either party may give the other party a notice of termination of this Contract. In this event, the termination shall take effect seven days after such notice of termination is given and the Contractor shall proceed in accordance with GCC Sub-Clause 52.6.  51.5 In addition to termination of this Contract for a fundamental breach in accordance with GCC Sub-Clauses 52.1 through 52.3, or resulting from an event of Force Majeure in accordance with GCC Sub-Clause 52.4, the Employer may terminate this Contract for convenience or upon termination or suspension of the Threshold Program.  51.6 If this Contract is terminated for any reason, the Contractor shall (a) stop work immediately, (b) make the Site safe and secure, (c) hand over any Drawings, Technical Specifications, other documents, Materials, Plant, and other work for which the Contractor has received payment (and all Materials, Plant, Equipment, Temporary Works, and Works), and (d) leave the Site as soon as reasonably possible. | |
| 1. Payment upon Termination | 52.1 If this Contract is terminated because of a fundamental breach of Contract by the Contractor, the Engineer shall issue a certificate for the value of the work done and Materials ordered less advance payments, if any, received up to the date of the issue of such certificate and less the percentage to apply to the value of the work not completed. The percentage to apply to the value of work not completed, representing the Employer’s additional cost for completing the Works is 10% of the Contract Price**.** Additional liquidated damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.  52.2 If this Contract is terminated for the Employer’s convenience, suspension or termination of the Threshold Program , or because of a fundamental breach of Contract by the Employer, or as the result of an event of Force Majeure, the Engineer 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, if any, received up to the date of the certificate. | |
| 1. Property | 53.1 All Materials on the Site, Plant, Equipment, Temporary Works, and Works shall be deemed to be the property of the Employer if this Contract is terminated because of the Contractor’s default. | |
| 1. Force Majeure | 54.1 For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a party, and is not the result of any acts, omissions or delays of the party relying on such Force Majeure (or any third person over whom such party has control, including any subcontractor), (b) is not an act, event or condition the risks or consequence of which such party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such party’s reasonable diligence, and (d) makes such party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances. Such events may include, but are not restricted to, acts of the Government in its sovereign capacity, wars or revolutions, terrorism, fires, floods, earthquakes, epidemics, quarantine restrictions, freight embargoes, and strike or lockout by persons other than the Contractor, any subcontractor, or any of their personnel.  54.2 The failure of a party to fulfill any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure; provided that the party affected by such an event has (a) taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, (b) informed the other party as soon as practicable (and in no event later than seven days following the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure, and (c) has made a request to the Engineer with respect to the claim of Force Majeure in accordance with GCC Clause 24.2.  54.3 Subject to GCC Sub-Clause 55.6, a party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.  54.4 A party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event in accordance with GCC Clause 24 and GCC Sub-Clause 55.2, and shall similarly give written notice of the restoration of normal conditions as soon as practicable.  54.5 If a party is prevented from performing any of its obligations under this Contract as the result of an event of Force Majeure and is otherwise in compliance with each of its obligations under GCC Clause 24 and this GCC Clause 55, such party shall be entitled to an extension of the Intended Completion Date in accordance with GCC Clause 24.  54.6 If any subcontractor is entitled under any contract or agreement relating to the Works to relief from force majeure on terms additional to or broader than those specified in this GCC Clause 55, such additional or broader force majeure events, circumstances or provisions shall in no way excuse the Contractor’s non-performance under this Contract or otherwise entitle the Contractor to relief under this GCC Clause 55.  **F. Additional Provisions** | |
| 1. MCC Required Provisions; Flow Through Provisions | 55.1 The provisions set forth in Annex A (Additional Provisions) form an integral part of this Contract. For the avoidance of doubt, the Parties agree and understand that the provisions set forth in Annex A reflect certain requirements of the Government and the Employer under the terms of the Threshold Program that are required to be transferred onto any contractor or subcontractor who partakes in procurement or subsequent contracts in which MCC funding is involved and that, as with the other clauses under this Contract, the provisions of Annex A are binding obligations under this Contract.  55.2 In any sub-contract or sub-award entered into by the Contractor, as permitted by the terms of this Contract, the Contractor shall ensure the inclusion of all the provisions contained in Annex A in any agreement related to such sub-contract or sub-award. | |
| 1. Fraud and Corruption Requirements | 56.1. MCC requires that the Employer and any other beneficiaries of MCC funding, including Bidders, suppliers, contractors, and subcontractors under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify to the Employer that they have acceptable commitments and procedures in place to address the potential for fraud and corruption.  Any entity receiving an award (including, but not limited to, both contracts and grants) of MCC Funding of over $500,000 will be required to certify to the Employer that they will adopt and implement a code of business ethics and conduct, within ninety (90) days of Contract award. Such entity will also include the substance of this clause in subcontracts that have a value in excess of $500,000. Information regarding the establishment of business ethics and conduct programs can be obtained from numerous sources, including but not limited to:  <http://www.oecd.org/corruption/Anti-CorruptionEthicsComplianceHandbook.pdf>;  <https://www.cipe.org/wp-content/uploads/2014/01/CIPE_Anti-Corruption_Compliance_Guidebook.pdf>  (a) For purposes of the Contract, the terms set forth below are defined as follows:   1. ***“coercion”*** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract; 2. ***“collusion”*** means a tacit or explicit agreement between two or more parties to engage in coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the MCA Entity of the benefits of free and open competition; 3. ***“corruption”*** means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Employer staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract.; 4. ***“fraud”*** means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) improperly a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation; 5. ***“obstruction of investigation into allegations of fraud or corruption”***means any act taken in connection with the implementation of any contract supported, in whole or in part, with MCC Funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, collusion, corruption, fraud, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a Threshold Program , Threshold Program agreement, or related agreements. 6. ***“prohibited practice”*** means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of Additional Provisions that will be made a part of MCC-funded contracts.   (b) MCC may cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that representatives of the Employer, the Contractor or any other beneficiary of the MCC Funding were engaged in coercion, collusion, corruption, fraud, obstruction, or prohibited practices during the selection process or the performance of the Contract, or another MCC-funded contract, without the Employer, the Contractor or such other beneficiary having taken timely and appropriate action satisfactory to MCC to remedy the situation.  (c) MCC and the Employer may pursue sanction of the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Employer determines that the Contractor has, directly or through an agent, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in performance of, the Contract or another MCC-funded contract.  (d) If the Employer or MCC determines that the Contractor, any subcontractor, any of the Contractor’s Personnel, or any agent or affiliate of any of them has, directly or indirectly, engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices, in competing for or in the performance of the Contract, then the Employer or MCC may, by notice, immediately terminate the Contractor's employment under the Contract and expel him from the Site, and the provisions of GCC Clause 52 shall apply.  (e) Should any of the Contractor’s Personnel be determined to have engaged in any coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the competition for or execution of the Contract, but the Employer or MCC determines not to terminate the Contractor’s employment and the Contract in accordance with the immediately preceding sub-paragraph, then the relevant Contractor’s Personnel shall be removed in accordance with GCC Clause 7. | |
| 1. Combatting of Trafficking in Persons | 57.1 MCC, along with other United States Government entities, has adopted a zero tolerance policy with regard to Trafficking in Persons (“TIP”) through its Counter-Trafficking in Persons Policy.[[1]](#footnote-1) In pursuance of this policy:   1. **Defined Terms.** For purposes of the application and interpretation of this Clause: 2. The terms “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” and “sex trafficking” have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”) and such definitions are incorporated by reference into this Sub-Clause; and 3. “Trafficking in Persons” means (a) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; (b) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. 4. **Prohibition**. Contractors, subcontractors, Consultants, Sub-Consultants and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Execute Orders regarding TIP, including using misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee’s identity documents. 5. **Contractor Requirements.** 6. The Contractor (or subcontractor) shall:    * + - 1. notify its employees of the MCC C-TIP Policy and of the actions that will be taken against Personnel for violations of this policy. Such actions may include, but are not limited to, removal from the contract, reduction in benefits, or termination of employment; and          2. take appropriate action, up to and including termination, against Personnel or subcontractors that violate the prohibitions set out in this policy. 7. Each Contractor shall: 8. certify that it is not engaged in, facilitating, or allowing any activities constituting Trafficking in Persons, or related activities also prohibited under this policy, for the duration of the Contract; 9. provide assurances that activities constituting Trafficking in Persons, or related activities also prohibited under this policy, will not be tolerated on the part of its Personnel, subcontractors or Sub-Consultants (as the case may be), or their respective employees; and 10. acknowledge that engaging in such activities is cause for suspension or termination of employment or of the Contract. 11. The Contractor or subcontractor shall inform the Employer within 24 hours of: 12. any information it receives from any source (including law enforcement) that alleges its Personnel, subcontractor, or the employee of a subcontractor, has engaged in conduct that violates this policy; and 13. any actions taken against any Personnel, subcontractor, subcontractor, or the employee of a subcontractor, pursuant to these requirements. 14. **Remedies.** Once the incident has been confirmed and depending on the severity of each case, the Employer will apply remedies, which could include any, all, or any combination of the following: 15. the Employer requiring the Contractor to remove the involved Personnel, Sub-Contractor or any of its involved Personnel, or any involved agent or affiliate; 16. the Employer requiring the termination of a subcontract or sub-award; 17. suspension of Contract payments until the breach is remedied to the satisfaction of the Employer; 18. loss of incentive payment, consistent with the incentive plan set out in the Contract, if any, for the performance period in which the Employer determined non-compliance; 19. the Employer pursuing sanctions against the Contractor, including declaring the Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; 20. termination of the Contract by the Employer for default or cause in accordance with the termination clause of the Contract; and 21. the Employer directing the Contractor to provide reasonable financial support or restitution to the victim(s) of any such incident, in each case in accordance with the Contractor’s applicable TIP risk management plan, and/or based on a final judicial or administrative determination issued pursuant to Applicable Law or the findings of an investigation conducted (directly or through a third party) by the Employer. | |
| 1. Environment, Health and Safety Management Plan | 58.1 After the date of Contract signing, the Contractor will be obliged to undertake training on specific Environment, Health and Safety Measures applicable to this Contract and to prepare detail, site-specific Health and Safety Management Plan (HSMP) based on all relevant health and safety provisions found in the Technical Specifications and Schedules, SEEK project procedures as presented on the training and Applicable Laws. EHSMP must be submitted to the Engineer within 3 days after the training. The EHSMP must be approved by the Engineer prior to commencement of the execution of the Works.  58.2 Unless the Engineer, within 14 days after receiving the Health and Safety Management Plan, gives notice to the Contractor stating the extent to which it does not comply with the Contract, the Contractor shall proceed in accordance with the EHSMP.  58.3 The Contractor shall also implement the health and safety requirements of the approved EHSMP and comply with instructions issued as a result of periodic inspections to be undertaken as part of the supervisory role required of the Engineer. The Contractor is to ensure a safe and respectful working environment for all its staff, including female, and should ensure appropriate safety equipment, uniforms etc. are available in a variety of sizes, including for female staff, as well as ensuring adequate and separate facilities (e.g. toilets, changing rooms) for both male and female staff, as relevant.  58.4 The Contractor shall be responsible for ensuring that all Subcontractor’s and Contractor’s Personnel understand and operate in accordance with the principles and requirements of the HSMP.  58.4 If, at any time, the Engineer gives notice to the Contractor that all or any portion of the HSMP fails (to the extent stated) to comply with the Contract, the Contractor shall submit a revised HSMP Plan to the Engineer in accordance with this Sub-Clause.  58.5 The Contractor shall notify the Engineer, the Employer, and MCC within 24 hours or as soon as reasonably possible after the occurrence of any accident which has resulted in damage or loss of property, disability or loss of human life, or which has or which could reasonably be foreseen to have a material impact on the environment and shall submit to the Engineer, the Employer, and MCC no later than 7 days after the occurrence of such an event, a summary report thereof.  58.6 The Contractor shall monitor its Primary Suppliers on an ongoing basis and, where there is a high risk of significant life-threatening situations related to the Primary Suppliers’ workers, the Contractor will introduce procedures and mitigation measures to ensure that Primary Suppliers are taking steps to prevent or to correct such life-threatening situations. Where a remedy is not possible, the Contractor shall shift its Primary Suppliers from which it obtains supplies for the Contract. | |
| 1. Protection of the Environment and Social Sustainability | * 1. The Contractor will be responsible for ensuring that all Subcontractor’s and Contractor’s Personnel understand and operate in accordance with the principles and requirements of the EHSM applicable to this Contract.   59.4 The Contractor shall ensure that its activities under the Contract comply with MCC’s Environmental Guidelines (as such term is defined in the Threshold Program or related agreement, which are available at http://www.mcc.gov), and are not ‘likely to cause a significant environmental, health, or safety hazard’ as defined in such Environmental Guidelines.  59.7 The Contractor shall comply with the IFC Performance Standards and the Contractor shall be responsible for ensuring that all subcontractor’s and Contractor’s Personnel understand and operate in accordance with the principles and requirements of the environmental, social, health and safety impacts provisions of this Sub-Clause and that similar standards apply to the subcontractor’s environmental, social, health and safety impacts management systems and environmental and social impacts performance.  59.8 The Contractor’s program submitted, maintained and implemented in shall demonstrate clearly the procedures and methods of working that the Contractor and its Subcontractors shall utilize to comply with the environmental and social impacts requirements of this Clause.  59.9 The Contractor shall ensure the adequate disposal of construction and excavation wastes in accordance with MCC’s Environmental Guidelines and Applicable Laws. This includes identifying the presence of hazardous materials and developing plans, approved by the Engineer, for proper handling and disposal of such materials.  59.10 The Contractor shall restore the Site to original conditions or to a state as set out in the Technical Specifications after the completion of the Works. | |
| 1. Staff and Labor | * 1. The Contractor shall adopt and implement human resources policies and procedures appropriate to its size and workforce that set out its approach to managing the Contractor’s Personnel. At a minimum, the Contractor shall provide all Contractor’s Personnel with documented information that is clear and understandable regarding their rights under all the relevant Labour Laws applicable to the Contractor’s Personnel and any applicable collective agreements, including their rights related to their employment, health, safety, welfare, immigration and emigration upon beginning the working relationship and when any material changes occur.   2. The Contractor shall ensure that the employment terms and conditions of migrant workers are not influenced by their migrant status.   3. The Contractor shall be responsible for monitoring compliance of Subcontractors and Primary Suppliers to the labour and working conditions outlined in the IFC Performance Standards in force from time to time.   4. Where accommodation or welfare facilities are provided to Contractor’s Personnel or Employer’s Personnel, the Contractor shall put in place and implement policies on the quality and management of such accommodation and the provision of such welfare facilities (including as regards minimum space, supply of water, adequate sewage and garbage disposal systems, appropriate protection against heat, cold, damp, noise, fire and disease carrying animals, adequate sanitary and washing facilities, separate breastfeeding/pumping facilities, ventilation, cooking and storage facilities and natural and artificial lighting, and all reasonable precautions to maintain the health and safety of the Contractor’s Personnel and Employer’s Personnel as provided in Clause 68 [Safety Procedures]). The accommodation and welfare facilities shall be provided in a manner consistent with the principles of non-discrimination and equal opportunity. Accommodation arrangements shall not restrict freedom of movement or of association, save that separate facilities should be provided for men and women. Sanitary and washing facilities should be provided in a manner that allow individuals’ privacy and safety.   Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-accommodation-welfare-staff-and-labor>  60.5 When submitting their EHSP, the Contractor shall include their proposed specifications related to any facilities that will be provided for staff and labor. The proposed facilities must comply with requirements of IFC Performance Standards 2 and be approved by the Engineer.” For further guidance on standards for workers’ accommodation see: “Workers’ accommodation: processes and standards, A guidance note by IFC and the EBRD” in particular its Part II:, Subsection I. Standards for workers’ accommodation, available at: <https://www.ifc.org/wps/wcm/connect/60593977-91c6-4140-84d3-737d0e203475/workers_accomodation.pdf?MOD=AJPERES&CACHEID=ROOTWORKSPACE-60593977-91c6-4140-84d3-737d0e203475-jqetNIh> | |
| 1. Gender and Social Inclusion | 61.1 The Contractor shall ensure that its activities under the Contract comply with the MCC Gender Policy[[2]](#footnote-2) and the Employer’s Social and Gender Integration Plan, as relevant to the activities performed under this Contract. The MCC Gender Policy requires that activities funded by MCC specifically address social and gender inequalities to ensure opportunities for the participation and benefit of women and vulnerable groups, as well as to ensure that its activities do not cause significant negative social and gender impacts. MCC also requires equitable opportunities for women and other disadvantaged groups to participate in and benefit from MCC funded activities, including in project-related employment.  61.2 The Contractor shall be responsible for ensuring that all subcontractor’s and Contractor’s Personnel understand and operate in accordance with the principles and requirements of the plan. The Employer understands that the Contractor is not responsible for the social and gender impacts of the Works, to the extent that such impacts result directly from completion of the Works as designed by the Employer.  61.3. Particular efforts are to be undertaken to ensure presence of female staff among the personnel if the Contractor conducts indoor visits to individual apartments (e.g. to do the detail check and measurements of the windows or doors). | |
| 1. Prohibition of Forced or Compulsory Labor | 63.1 The Contractor shall not employ "forced or compulsory labor" in any form. “Forced or compulsory labor" consists of all work or service, not voluntarily performed, that is extracted from an individual under threat of force or penalty.  63.2 The Contractor shall monitor its Primary Suppliers on an ongoing basis in order to identify any significant changes in these suppliers. If new risks or incidents of forced or compulsory labor are identified, the Contractor shall take appropriate steps to remedy them. | |
| 1. Prohibition of Harmful Child Labor | 63.1 The Contractor shall not employ any child to perform any work that is economically exploitative, or is likely to be hazardous to, or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development. The Consultant will identify the presence of all persons under the age of eighteen (18). Where Applicable Law does not specify a minimum age, the Consultant shall ensure that children aged below 15 are not employed to perform work under this contract. Where Applicable Law diverges from this specified age standard, the higher age should apply. Children under the age of eighteen (18) will not be employed in hazardous work. All work of persons under the age of eighteen (18) will be subject to an appropriate risk assessment and regular monitoring of health, working conditions, and hours of work.  63.3 The Contractor shall monitor its Primary Suppliers on an ongoing basis in order to identify any significant changes in these suppliers. If new risks or incidents of child labor are identified, the Contractor shall take appropriate steps to remedy them. Additional summary guidance may be found here: <https://www.mcc.gov/resources/doc/guidance-on-supply-chains> | |
| 1. Prohibition of Sexual Harassment | 64.1 The Contractor including all Sub-Consultants and any Personnel, shall prohibit, and refrain from, sexual harassment behaviors directed at Threshold Program beneficiaries, partners, stakeholders, Employer employees, Employer consultants, MCC personnel, or MCC consultants. Examples of sexual harassment include, but are not limited to, the following behaviors: unwelcome sexual advances; requests for sexual favors; verbal or physical harassment of a sexual nature; or offensive remarks about a person’s sex, sexual orientation or non-conformity with gender stereotypes. The Consultant shall put in place an incident referral and reporting plan with respect to the provision of the Services to support a safe and respectful work environment, in form and substance satisfactory to the Employer and MCC. The Consultant shall be responsible for ensuring that all Consultant and Sub-Consultant Personnel understand and operate in accordance the requirements of this Clause in order to assure a safe, respectful, and harassment free work environment. The Employer may investigate (either directly or through a third party) allegations of sexual harassment as it determines appropriate. The Consultant shall fully cooperate with any investigation conducted by the Employer regarding breach of this provision. The Consultant will ensure that any incident of sexual harassment investigated by the Employer has been resolved to the Employer and MCC’s satisfaction. | |
| 1. Non-Discrimination and Equal Opportunity | * 1. The Contractor shall not make employment decisions on the basis of personal characteristics unrelated to inherent job requirements. Personal characteristics include sex, race, nationality, ethnic, social and indigenous origin, religion or belief, disability, age, sexual orientation, and gender identity. The Contractor shall base the employment relationship on the principle of equal opportunity and fair treatment, and shall not discriminate with respect to aspects of the employment relationship, including recruitment and hiring, compensation (including wages and benefits), working conditions and terms of employment, access to training, promotion, termination of employment or retirement, and discipline. In countries where the relevant labor laws provide further requirements regarding non-discrimination in employment, the Contractor shall comply with such laws in addition to the foregoing. When the relevant labor laws are silent on non-discrimination in employment, the Contractor shall ensure compliance with this Sub-Clause’s requirements by implementing a policy in form and substance satisfactory to the Employer and MCC. Special measures of protection or assistance to remedy past discrimination or selection for a particular job based on the inherent requirements of the job shall not be deemed discrimination.   2. The Contractor shall adopt recruitment, hiring and retention practices that support the employment of women and staff from diverse backgrounds. | |
| 1. Code of Conduct | | 66.1 The Contractor will be obliged, before the commencement of any works, to issue a formal declaration on compliance with the Code of Conduct attached to this Contract. Failure to comply with relevant regulations in Kosovo and/or Code of Conduct could lead to cancellation of Contract and activation of Performance security. | |
| 1. Grievance Mechanism for Contractor and Subcontractor Personnel | 67.1 The Contractor shall provide a grievance mechanism for Contractor’s Personnel, including Subcontractor staff, if a separate Subcontractor grievance mechanism does not exist, to raise workplace concerns. The Contractor shall inform its Personnel of the grievance mechanism at the time of recruitment and make it easily accessible to them. The mechanism should involve an appropriate level of management and address concerns promptly, using an understandable and transparent process that provides timely feedback to those concerned, without any retribution to Personnel for initiating or participating in a complaint under such mechanism. The mechanism should also allow for anonymous complaints to be raised and addressed. The mechanism should not impede access to other judicial or administrative remedies that might be available under applicable law or through existing arbitration procedures, or substitute for grievance mechanisms provided through collective agreements. | |
| 1. Contractor Past Performance Reporting System | 68.1 The Contractor acknowledges that during the performance of the Contract the Employer shall maintain a performance record of the Contractor in accordance with MCC’s Contractor Past Performance Reporting System, as described on MCC’s website.  68.2 The Contractor shall provide timely information or input to, and otherwise respond to requests for input or information from, the Employer to enable the Employer to comply with MCC requirements related to this Contractor Past Performance Reporting System. | |
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| Section VII Special Conditions of Contract | |
| The following Special Conditions of Contract (“SCC”) shall supplement and/or amend the General Conditions of Contract (“GCC”). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC. | |
| **GCC 1.1**  Definitions  (c) Applicable Law | (c) “Applicable Law” means the laws and any other instruments having the force of law in **Kosovo,** as they may be issued and in force from time to time.  (s) “Employer” means “Millennium Foundation Kosovo**”,** as well as the “MCA Country” successor entity as appointed by the Government. |
| **GCC 5**  Communications | For notices that are served on the Employer the address shall be:  The Project Manager (Employer Representative) is:  Name:  Address:  Email:  The Project Manager (Contractor Representative) is:  Name:  Address:  Email: |
| **GCC 1.1**  Definitions  (l) Contract Price | (l) The Contract Price is **XX** EURO (in words)   |  |  |  | | --- | --- | --- | | **Contract Price** | | | | **(VAT excluded)** | **(VAT included)** | **The Contract Price**  **[(VAT excluded) + (VAT included)]** | | € XXXX | € XXXX | € XXXX |   Payment will be done according to the Schedule of Activities |
| **GCC 1.1**  Definitions  (oo) “Start Date” | This Contract shall enter into force on the date when the Employer informs in writing the Contractor to commence the execution of the Works.  **Note to the Contractor:** The Entry into Force of the Contract depends on the availability of the funds MFK receives from the Municipality [name of the Municipality] and the Resident Council/Homeowner Association as part of the Co-funding Agreement signed by these parties. |

**Annex A: Additional Provisions**

The additional provisions of contract can be found on the MCC website:[**https://www.mcc.gov/resources/doc/annex-of-general-provisions**](https://www.mcc.gov/resources/doc/annex-of-general-provisions)

**NB: These provisions must be downloaded and attached to the Contract prior to signature.**

## Annex B: Compliance with Sanctions Certification Form

In satisfaction of clause G of the Additional Provisions at Annex A of the Contract, this form is to be completed by the Bidder upon submission of the Bid and, if selected, by the Contractor initially, within 28 days of receipt of Letter of Acceptance and Contract Agreement, and subsequently thereafter on the last business day prior to the last day of each quarter (March 31, June 30, September 30, December 31) after the signature of an MCC-Funded Contract[[3]](#footnote-3), for the duration of the Contract.

The form is to be submitted to the MCA Procurement Agency at the time of Bid submission, and to the MCA Entity Fiscal Agent thereafter [*email addresses for MCA Entity Procurement and Fiscal Agents to be inserted here*] with a copy to MCC at [sanctionscompliance@mcc.gov](mailto:sanctionscompliance@mcc.gov).

For the avoidance of doubt, pursuant to the MCC Program Procurement Guidelines, reporting the provision of material support or resources (as defined below) to an individual or entity on the enumerated lists will not necessarily result in the disqualification of a Bidder or cancellation of the Contract. However, **failure** to report such provision, or any similar material misrepresentation, whether intentional or without due diligence, would be grounds for disqualifying the Bidder or canceling the Contract, and such Bidder or Contract may also be subject to potential criminal, civil, or administrative remedies as appropriate under U.S. law.

Instructions for completing this form are provided below.

**Full Legal Name of Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Full Name and Number of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**MCA Entity with which Contract Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

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| * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”,** including (without limiting the scope of paragraph G):   + The Bidder or Contractor, to the best of its current knowledge, has not provided, at any time within the previous ten years or currently, any material support or resources (including without limitation, any MCC Funding[[4]](#footnote-4)), directly or indirectly to, or knowingly permitted any funding (including without limitation any MCC Funding) to be transferred to, any individual, corporation or other entity that the Bidder or Contractor knew, or had reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities on the enumerated lists described below (including the Bidder or Contractor itself).   **OR**   * All eligibility verifications have been completed in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions,”** and the following results were obtained (information to be provided for each result): * Name of individual, corporation or other entity: * Eligibility verification source(s) where listed ineligible: * Position (if individual), or goods or services provided (if corporation or other entity): * Estimated value of work performed as of certification date: |

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed to be “fraud” for purposes of the ITB or Contract, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

**Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Printed Name of Signatory: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**INSTRUCTIONS FOR COMPLETING FORM:**

The Bidder/Contractor shall perform the following procedures to verify the eligibility of firms, key personnel, subcontractors, vendors, suppliers, and grantees, in accordance with **Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions,”** provided below.

The Bidder/Contractor shall verify that any individual, corporation, or other entity that has access to or is (or would be) a recipient of MCC Funding, including Bidder/Contractor staff, consultants, sub-contractors, vendors, suppliers, and grantees, is not listed on any of the following (or, in the case of #4 below, is not a national of, or associated in, any country appearing on such list):

**Group 1.**

The Dept. of Commerce, International Trade Administration, Consolidated Screening List (<https://www.trade.gov/consolidated-screening-list>) is a consolidated list of multiple export screening lists of the U.S. Departments of Commerce, State, and Treasury. This consolidated list includes the following three lists that are required to be checked by the MCC PPG (referred to as **CSL Sites**):

* US Treasury, Office of Foreign Assets Control, Specially Designated Nationals (SDN) List - <https://sanctionssearch.ofac.treas.gov/>
* US Department of Commerce, Bureau of Industry and Security, Denied Persons List - <https://www.bis.doc.gov/index.php/the-denied-persons-list>
* US State Department, Directorate of Defense Trade Controls, AECA Debarred List - <https://www.pmddtc.state.gov/ddtc_public?id=ddtc_kb_article_page&sys_id=c22d1833dbb8d300d0a370131f9619f>

It is important to note that the source screening lists used in the Consolidated Screening List are subject (to change without advance notice to MCC. Therefore, Contractors are required to check that the Consolidated Screening List continues to include the sites listed above every time they perform an eligibility check. If a Contractors finds that the Consolidated Screening List is missing any of these lists, it should (a) immediately inform the MFK Procurement Manager.

**Group 2.**

The MCC PPG also requires MCA Entities to check other lists that are not included in the CSL Sites (referred to as **Individual Sites**) and must be checked individually each time. These sites are as follows:

* System for Award Management (SAM) Excluded Parties List - <https://sam.gov/content/exclusions>
* World Bank Debarred List - <https://www.worldbank.org/debarr>
* US State Department, Foreign Terrorist Organizations (FTO) List - <https://www.state.gov/foreign-terrorist-organizations/>
* US State Department, Executive Order 13224 - <https://www.state.gov/executive-order-13224/>
* US State Sponsors of Terrorism List - <https://www.state.gov/state-sponsors-of-terrorism/>

In addition to these lists, before providing any material support or resources to an individual or entity, the Bidder/Contractor will also consider all information about that individual or entity of which it is aware and all public information that is reasonably available to it or of which it should be aware.

Documentation of the process takes two forms. The Bidder/Contractor should prepare a table listing each staff member, consultant, sub-contractor, vendor, supplier, and grantee working on the contract, such as the form provided below.

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  | **Group 1** | | | **Group 2** | | | | |  |
| Name | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | Eligible (Y/N) |
| SDN List | Denied Persons List | AECA Debarred List | SAM Excluded Parties List | World Bank Debarred List | FTO List | Executive Order 13224 | State Sponsors of Terrorism |
| Contractor (the firm itself) |  |  |  |  |  |  |  |  |  |
| Staff Member #1 |  |  |  |  |  |  |  |  |  |
| Staff Member #2 |  |  |  |  |  |  |  |  |  |
| Consultant #1 |  |  |  |  |  |  |  |  |  |
| Consultant #2 |  |  |  |  |  |  |  |  |  |
| Sub-Contractor #1 |  |  |  |  |  |  |  |  |  |
| Sub-Contractor #2 |  |  |  |  |  |  |  |  |  |
| Vendor #1 |  |  |  |  |  |  |  |  |  |
| Supplier #1 |  |  |  |  |  |  |  |  |  |

The Bidder/Contractor should list the date on which the search was conducted using each eligibility verification source, and whether the staff member, consultant, sub-contractor, vendor, supplier, or grantee was determined to be eligible – that is, did not show up on any of the eligibility verification sources.

In addition, as all three lists are searchable databases that return a positive or negative search results page upon submission of a name to be searched, in order to document the eligibility, the Bidder/Contractor should print out and retain for each staff member, consultant, sub-contractor, vendor, supplier, or grantee the search results page for each eligibility verification source, which should read, *“Has Active Exclusion? No”* (in the case of SAM), *“No Matching Records found!”* (in the case of World Bank Debarred List), or *“No result”* (in the case of the US Government Consolidated Screening List).

If an adverse record(s) has/have been found for one or more individuals or entities, including for the Bidder/Contractor itself, the Bidder/Contractor must conduct additional research to determine whether the finding is a “false positive.” If it is a false positive, the Bidder/Contractor will mark the staff member, consultant, sub-contractor, vendor, supplier, or grantee as eligible, and retain the research confirming that eligibility.

If, on the other hand, any of the Bidder’s/Contractor’s personnel, consultants, sub-contractors, vendors, suppliers, or grantees are found to be ineligible at this stage, the MCA Entity will determine whether it is possible under the circumstances to allow the Bidder/Contractor to make a substitution. This determination will be made on a case by case basis and will require approval by MCC regardless of the estimated value of the proposed contract.

In addition, in accordance with MCC Program Procurement Guidelines P1.A.1.9(d), the Bidder/Contractor must ensure that MCC Funding is not used for goods or services from a country, or from a firm that is organized in or has its principal place of business or a significant portion of its operations in a country, that is subject to sanction or restriction by law or policy of the United States, including U.S. designated State Sponsors of Terrorism (<https://www.state.gov/j/ct/list/c14151.htm>).

All of these documents must be retained by the Bidder/Contractor as part of the overall record of the Contract for the duration of the Contract, and for the further period after the contract expiration that is required for document retention under the Contract (typically five years after the expiration date of the Compact Program or Threshold Program). Access to these documents must be provided to the MCA Entity, MCC, or their designees in accordance with the access provisions of the Contract.

**Annex A “Additional Provisions,” Paragraph G “Compliance with Terrorist Financing Legislation and Other Restrictions”**

1. The Contract Party, to the best of its current knowledge, did not provide, within the previous ten years, and will take all reasonable steps to ensure that it does not and will not knowingly provide, material support or resources (as defined below) directly or indirectly to, or knowingly permit any funding (including without limitation MCC Funding) to be transferred to, any individual, corporation or other entity that such Party knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of Treasury’s Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://www.treas.gov/offices/enforcement/ofac), (ii) on the consolidated list of individuals and entities maintained by the “1267 Committee” of the United Nations Security Council, (iii) on the list maintained on [www.sam.gov](http://www.sam.gov), or (iv) on such other list as the MCA Entity may request from time to time.

For purposes of this provision:

1. “material support and resources” includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.
2. “Training" means instruction or teaching designed to impart a specific skill, as opposed to general knowledge.
3. “Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.
4. The Contract Party shall ensure that its activities under this Agreement comply with all applicable U.S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the Bank, as may be applicable. The Contract Party shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC’s website at www.mcc.gov. The Contract Party shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.
5. Other restrictions on the Contract Party shall apply as set forth in Section 5.4(b) of the Compact with respect to drug trafficking, terrorism, sex trafficking, prostitution, fraud, felony, any misconduct injurious to MCC or the MCA Entity, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Compact or any Supplemental Agreement or that materially and adversely affects the Program Assets or any Permitted Account.

## Annex C: Self-Certification Form

The below self-certification form should be signed by the Contractor as part of the Contract. This self-certification declares that the Contractor will only procure goods and materials essential for the Contract (as set out in the Bill of Quantity), from suppliers that are free of forced and child labor and provide their direct workers with a safe and hygienic workplace.

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As stipulated in the Contract in Sections 70.7 and 71, the Contractor must comply with the International Finance Corporation’s *Performance Standards on Environmental and Social Sustainability* regarding labor standards and protections. In turn, the Contractor must ensure that its Primary Suppliers, i.e., any person or legal entity who provides goods or materials essential for the Contract, do not use forced and child labor in the production of such goods and materials, and provide their direct workers with a safe and hygienic workplace.

In acknowledgement of my understanding, I certify that with respect to this contract:

* + I understand the requirements in the contract with the MCA-[Name of Country].
  + [Name of Contractor] will ensure that all operations undertaken are done in accordance with the IFC Performance Standards, as described in Sections 70.7 and 71 of the Contract.
  + [Name of Contractor] does not and will not use forced or child labor, and provides workers with a safe and hygienic workplace.
  + [Name of Contractor] does not and will not procure material or goods from suppliers that employ forced or child labor.
  + [Name of Contractor] will only procure material or goods from suppliers that provide a safe and hygienic working place for all laborers.
  + [Name of Contractor] has a system in place to monitor our suppliers, identify any new and emerging risks. This system also allows [Name of Contractor] to effectively remedy any risks.
  + Where remedy is not possible for any new risks or incidents, [Name of Contractor] commits to severing ties with these suppliers.

Record any exceptions to the above here:

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*I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a “fraud” for purposes of the CONTRACT. I CONFIRM THAT I DULY REPRESENT [Name of Contractor] AND HAVE THE LEGAL AUTHORITY TO SIGN.*

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Printed Name of Signatory:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Annex D: Code of Business Ethics and Conduct Certification Form

*In satisfaction of clause 66 of the General Conditions of Contract, this form is to be completed by the Contractor and submitted for any MCC-Funded Contract with a value in excess of $500,000. This form is to be completed by the Contractor and submitted together with the signed Contract Agreement.*

*If the original certification, submitted along with the signed Contract Agreement, is that the Contractor “has adopted and implemented,” then further submissions will not be required, except as applicable for subcontracts. If the original certification is that the Contractor “will adopt and implement,” then a subsequent submission will be required when the Supplier “has adopted and implemented.”*

*The form is to be submitted to the MCA Entity Procurement Agent* ***[email address for MCA Entity Procurement Agent to be inserted here]****, together with a copy of the Contractor’s code of business ethics and conduct.*

*If the Contractor is a joint venture or association, each Member of the joint venture or association must complete and submit this form, together with their respective code of business ethics and conduct.*

**Code of Business Ethics and Conduct Certification Form**

**Full Legal Name of Contractor: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Full Name and Number of Contract: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**MCA Entity with which Contract Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

As stipulated in GCC 66 of the Contract, the Contractor must certify to the MCA Account Entity that they will adopt and implement a code of business ethics and conduct within ninety (90) days of Contract award. The Contractor must also include the substance of this clause in subcontracts that have a value in excess of $500,000.

In satisfaction of this requirement, pursuant to GCC 66 of the Contract, I certify that with respect to this contract:

* + **[Name of Contractor]** has adopted and implemented a code of business ethics and conduct, a copy of which is hereby submitted together with this certification form.

**OR**

* + **[Name of Contractor]** will adopt and implement a code of business ethics and conduct within ninety (90) days after the date of Contract signature. **[Name of Contractor]** will resubmit this certification, together with a copy of the **Contractor**’s code of business ethics and conduct, when such code has been adopted and implemented.
  + **[Name of Contractor]** will include the substance of this requirement in all subcontracts having a value in excess of $500,000 and will forward all resulting certifications to **[Name of MCA Entity]**.

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed “fraud” for purposes of the Contract between the Contractor and the MCA Entity, the MCC Program Procurement Guidelines, and other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

**Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Printed Name of Signatory: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**CODE OF CONDUCT**

INTRODUCTION:

This document represents the Code of conduct for Contractor employed on the Works Contract. The Code of conduct sets out the principles that must be followed by Contractor and all Contractors office and field personnel, operating under SEEK project. Contractors adherence to the Code and proper control system by SEEK will ensure better reliability and public acceptance of SEEK project.

Failure to comply with relevant regulations in Kosovo and/or this Code could lead to the termination of Contract and the activation of Performance Security.

This Code of conduct is produced by SEEK project and SEEK reserves the right to change and amend this Code of conduct and to provide guidance, interpretations, etc. The up to date versions of this Code of conduct will be available at SEEK web site: https://millenniumkosovo.org/seek/.

**PERSONAL AND PROFESSIONAL STANDARDS**

Contractor is required to act with integrity and reasonable skill and care to ensure that each service or works is executed competently, in accordance with the applicable regulations and this Code.

Contractor must not engage in conduct that damages the reputation of Contractor and diminishes public confidence in SEEK Project, MFK and MCC.

In addition to the training envisaged in the Section 1, Technical specifications, Contractor will participate in in additional training programs organized by SEEK is they are deemed necessary in order to enhance the operation of AER IP, implementation of construction works and reduce the rate of errors (non-compliances).

Contractor will receive user credentials for GMAS system and is responsible for protecting access credentials to GMAS so that unauthorized use is avoided. CONTRACTOR is obliged to immediately report to SEEK any unauthorized use of GMAS that Contractor is aware. The use of GMAS shall be strictly subject to any terms and conditions specified by SEEK.

Contractor shall acknowledge that responsibility for conducting construction and installation of EEM rests solely with them and no liability shall attach to SEEK for any error, misconduct, malpractice, act or omission howsoever arising from carrying out their service/works.

All professional activities by Contractor should be carried out in compliance with the relevant health and safety laws and standards. Site visits and work can be carried out only with owner’s permission. If Contractor finds the existing building or any of its equipment in such a condition as to make it unsafe, Contractor shall refuse to carry out the service/works.

**GENERAL CONDUCT**

Contractor must have an understanding, stay up-to-date and adhere to all the legislative and regulatory framework in which construction is practiced, including but not limited to: safety, health and welfare; employment; equality; building; waste management; tax.

Contractor must implement quality assurance and review projects after completion aiming to improve the standard of work, procedures etc. Contractor should offer assistance as required or necessary to SEEK in upgrading this Code, as well as SEEK procedures and practices.

**CONFLICTS OF INTEREST AND INTEGRITY**

Contractor must at all times:

* act in an unbiased manner;
* refuse to accept any compensation other than their fee;
* avoid situations which may give rise to a conflict of interest. Where such a conflict might be perceived, inform the HH beneficiary and SEEK project in advance;
* avoid situations where they propose and implement excess EEM.

Contractor will not offer or give any inducement to HH members or SEEK staff that could be construed as a bribe.

**CONFIDENTIALITY AND DATA PROTECTION**

Contractor must treat all customer apartment owners (personal information and records) as private and confidential and may not reveal such information unless:

- Apartment owners has given permission for the information to be revealed;

- Contractor is legally obliged to disclose such information.

Contractor will hold and store all apartment owner’s information in accordance with Law No. 06/L-082 on Protection of Personal Data and may not use it for any other purpose whatever, except for work on SEEK project. Contractor will refuse to reveal confidential information about a client unless required to do so by law.

**NON-DISCRIMINATION AND EQUAL OPPORTUNITY**

In their practice, Contractor must not unlawfully or unjustifiably discriminate against any individual based on gender, race, nationality or disability, or allow their views of the lifestyle, culture, belief, color, gender, sexuality or age of others to prejudice their professional practice and relationships.

Contractor is obliged to pay particular attention to GSI constituents and abide by instructions on gender and social inclusion as detailed in training material that will receive on appropriate customer engagement taking into consideration particularly the provisions in the SEEK Anti-Sexual-Harassment Policy available at <https://millenniumkosovo.org/wp-content/uploads/2019/10/MFK-Anti-Sexual-Harassment-Policy-1.pdf>

**ADVERTISING AND MARKETING**

Contractor may only promote and advertise their services/works in a clear, honest and lawful manner. Any advertisement by a Contractor must comply with the Code of conduct and be clearly identifiable as an advertisement.

Contractor must not:

* + Engage in any commercial practices that are misleading or likely to mislead apartment owners customers;
  + Knowingly make exaggerated claims for the outcome of work, energy/cost saving, additional benefits and incentives, etc.;
  + Charge service/works fees that are discriminatory or excessive;
  + Exploit the inexperience of apartment owners customers and offer them excess services/works.

In publishing references for services/works under SEEK project fairly acknowledge contributions of others to the project.

**CONSTRUCTION PRACTICE**

Contractor shall with reasonable skill, care and diligence endeavor to carry out high quality services and construction works which are required in accordance with scope of works and contract.

Contractor shall deploy management resources sufficient for satisfactory contract progress and organize the works team efficiently for optimum effectiveness in completing a good quality project.

Contractor will, for each particular AER sub-project, appoint competent (and trained) site engineer to oversee service/works.

Contractor shall carry out contracted work according to its terms, conditions and specification with labor skills which are appropriate to the type of project. All workers and sub-contractors shall be competent with appropriate training and experience and have the necessary skills to undertake their respective service/work.

Contractor shall ensure (and document) that all materials/products used in construction comply with the requirements of the Building Regulations and are from SEEK eligible products/materials list. All materials/products must be installed in accordance with manufacturers’ recommendations.

Contractor shall ensure that workmanship shall comply with all requirements of the Building Regulations and are in line with good practice.

Contractor is obliged to ensure safe working conditions, which implies that its employees will not be exposed to health and other risks, to provide them with personal protective equipment for fieldwork, and to provide them with appropriate information and insurance against possible risks. Contractor shall adhere to working practices as described in EHS framework for AER IP ass defined in Annex 5 of AER OM, EHS component in AER OM.

Contractor shall always respect the apartment owners customer’s property and wider environment and maintain the site in a clean and tidy state.

Contractor shall provide guarantees as to the quality of products/materials and workmanship in accordance with the contract.

Contractor will demonstrate to the apartment owners customer all operational features and all necessary maintenance requirements of the installed EEM. Contractor will furnish HH beneficiary with certificates of compliance of products / materials, as well as appropriate operating and maintenance instructions in local language.

**RECORDS AND DOCUMENTATION**

Contractor is fully responsible for all consequences that may occur as a result of data delivered with offer and its work progressing reports. Contractors shall avoid fabrication or falsification of any information or documentation.

Contractor shall keep all records related to service/works for the period of at least 5 years after the service/work has been completed.

Contractor is responsible for safe keeping of records, evidence and related calculations in digital format and/or hard copy, and this evidence could be used in the control process by SEEK.

**COMPLAINTS ON NON-COMPLIANCE WITH THE CODE**

All legal and natural persons and citizens of Kosovo may file a complaint about the behavior of Contractor which they consider to be contrary to this Code of conduct, Works Requirements, IDIQ Contract and particularly the SEEK Anti-Sexual-Harassment Policy and other related MFK and MCC policies and Laws applicable in Kosovo.

**Certificate on compliance with Code of Conduct for Contractor**

I, the undersigned, for the company: [xxxxxx], hereby declare that I am fully aware of provisions of Code of conduct and other relevant legislation in construction field, and on behalf of company [xxxxxx], confirm to fully abide by them. This includes explicitly the SEEK Anti-Sexual-Harassment Policy.

Furthermore, I acknowledge that SEEK project is responsible for enforcing the Code of conduct for Contractors and will consider their decisions in matters pertaining to Contractors status and related rights and obligations as final.

*For the Contractor:*

First name, Last name:

Position:

Personal identification number:

Date:

Signature:

**FORM OF LETTER OF ACCEPTANCE**

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

To: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[Name and address of the Contractor]*

Dear Sir or Madam,

This is to notify you that your Quotation dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_for execution of the *[name and number of the Contract]* for the Contract price of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[amount in words and figures]*, as corrected and modified in accordance with the Request for Quotation has been accepted by us.

You are also requested to sign the attached contract form and commence construction of the Works not later than \_\_\_\_\_\_\_\_\_\_\_\_\_, and ensure the completion of the Works within the construction period specified in the contract.

For and on behalf of the Employer:

Authorized Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name of Signatory : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title : \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

## Form of Performance Bank Guarantee

**[Bank’s Name, and Address of Issuing Branch or Office]**

**Beneficiary:** **[Name and Address of Employer]**

**Date:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PERFORMANCE GUARANTEE No.:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We have been informed that **[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 **[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 **[name of Bank]** hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of **[amount in figures]****[amount in words]**, such sum being payable in the currency 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 (28) days following the date of issuance of the Defects Liability Certificate in accordance with the terms of the Contract, calculated based on a copy of such Defects Liability Certificate which shall be provided to us; or on the \_\_\_ day of \_\_\_\_\_\_, 2\_\_\_, whichever occurs first, unless the date specified is extended in accordance with the following paragraph.

We have been informed that you may require the Contractor to extend this guarantee if the Defects Liability Certificate under the Contract has not been issued by the date twenty-eight (28) days prior to the date specified in the paragraph above (the \_\_\_ day of \_\_\_\_\_\_\_\_, 2\_\_\_\_). We undertake to extend the expiry date of this guarantee upon receipt by us, within such period of twenty-eight (28) days, of your demand in writing and your written statement that the Defects Liability Certificate has not been issued and that the Contractor remains obligated to provide the Performance Security pursuant to the conditions of the Contract.

Any demand for payment under this guarantee must be received by us at this office on or before the date of its expiry as may be extended in accordance with the terms set forth above.

[***Issuing Bank to delete whichever is not applicable***] We confirm that [we are a financial institution legally authorized to provide this guarantee in the Employer’s country] **[OR]** [we are a financial institution located outside the Employer’s country but have a correspondent financial institution located in the Employer’s country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact information is as follows: (provide name, address, phone number, and email address].

This guarantee is subject to the Uniform Rules for Demand Guarantees, 2010 Revision, ICC Publication No. 758, except that the supporting statement requirement of Article 15(a) is hereby excluded and as may otherwise be stated above.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_   
**[signature(s)]**

**Form EXP-1: Construction Turnover**

Each Bidder or member of a JV/Association making up a Bidder must fill in this form.

|  |  |  |  |
| --- | --- | --- | --- |
| **Annual Turnover Data for the Last 3 Years (Construction only)** | | | |
| **Year** | **Amount**  **Currency** | **Exchange**  **Rate** | **EURO €**  **Equivalent** |
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| **Construction Turnover for last 3 year** | | |  |

The information supplied should be the annual construction turnover of the Bidder or each member of a JV/Association making up a Bidder in terms of the amounts billed to clients for each year for work in progress or completed, converted to EURO at the rate of exchange at the end of the period reported.

### Form EXP-2: Specific Construction Experience in Key Activities

Fill in one (1) form per contract.

|  |  |  |  |
| --- | --- | --- | --- |
| Contract with Specific Key Activities | | | |
| Contract No . . . . . . of . . | Contract Identification |  | |
| Award Date |  | Completion Date |  |
| Role in Contract | * Contractor | * Management Contractor | * Subcontractor |
| Total Contract Amount | EURO (€) | | |
| If member of a JV or other association, or a subcontractor, specify participation of total contract amount | Percent of Total | Amount | |
| MCA Entity’s (contracting authority) Name  Address  Telephone Number  Fax Number  E-mail |  | | |
| Description of the key activities in accordance with the Specific Experience  Brief Description of the Works Executed by the Bidder/Member of a JV/Association making up the Bidder | | | |
|  |  | | |

1. <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy> [↑](#footnote-ref-1)
2. Available at: https://assets.mcc.gov/guidance/mcc-policy-gender.pdf [↑](#footnote-ref-2)
3. “MCC-Funded Contract” is defined as a contract signed by an MCA Entity or Core Team, as opposed to a contract signed by MCC, under the provisions of MCC’s Program Procurement Guidelines, and using funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding. [↑](#footnote-ref-3)
4. “MCC Funding” is defined as funding provided by MCC, through a Compact Program, a Threshold Program, or 609(g) funding [↑](#footnote-ref-4)