

**RASUWAGADHI HYDROPOWER COMPANY LIMITED**

# **Rasuwagadhi Hydroelectric Project**

**TENDER NO: RHGPCL/RGHEP/072/73/TL-01**

**TENDER DOCUMENT**

**FOR**

**DESIGN, SUPPLY, CONSTRUCTION, TESTING AND  
COMMISSIONING OF 132kV D/C TRANSMISSION LINE  
FROM RASUWAGADHI HYDROELECTRIC PROJECT TO  
CHILIME HUB**

**December 2016**

**KATHMANDU, NEPAL**



**RASUWAGADHI HYDROPOWER COMPANY LIMITED**

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**VOLUME 1 TENDERING PROCEDURES**

**December 2016**

**KATHMANDU, NEPAL**



VOLUME I

SECTION I

INVITATION FOR BID (IFB)



**RASUWAHADGI HYDROPOWER COMPANY LIMITED**  
**RASUWAGADI HYDROELECTRIC PROJECT (111 MW)**

**INVITATION FOR BIDS**

**(NATIONAL COMPETITIVE BIDDING)**

**Lot 3: Transmission line works**

**RGHEP-Chilime Hub 132 kV D/C Transmission Line Works**  
**(Contract Identification No.: RGHPCL/RGHEP/073/74/TL-01)**

**(First date of Publication of Notice: 8<sup>th</sup> December 2016)**

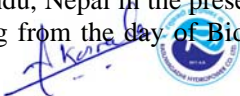
1. Rasuwagadhi Hydropower Company Limited (RGHPCL), the "Employer", is a Company promoted by Nepal Electricity Authority (NEA) and Chilime Hydropower Company Limited (CHPCL). RGHPCL has completed the financial closure including the debt portion required for the Project with Employees Provident Fund (EPF) and equity investment will be made from Chilime Hydropower Company Ltd. (CHPCL), Nepal Electricity Authority (NEA), Local Promoters and General public. It is intended that the part of the proceeds of these resources will be applied to eligible payments under the contract for which this Invitation to Tender is issued.
2. The Employer invites sealed Bids (single envelope) from eligible Bidders for the work as mentioned in table below :

Tender No.	Description of Works	Last Date for Purchasing of Bidding Documents	Last Date and Time for Submission of Bidding Documents	Date for Opening Bidding Documents	Bid Document Price (NRs)	Bank Voucher Detail
Tender No: RGHPCL /RGHEP /073/74/TL-01	Design, Supply, Construction, Testing and Commissioning of 132 kV Transmission Line from Rasuwagadhi Hydroelectric Project to Chilime Hub, Rasuwa, Nepal	Within 30 days of First Notice Publication i.e 6 <sup>th</sup> January 2017	31 <sup>st</sup> day of First Notice Publication i.e., 8 <sup>th</sup> January 2017 on 12:00 hours	31 <sup>st</sup> day of First Notice Publication i.e 8 <sup>th</sup> January 2017 on 14:00 hours	20,000/-	Account No. 0010060109869, Mega Bank, Rising Mall, Kamaladi, Kathmandu, Nepal

3. The Bids shall be applicable to National Competitive Bidding (NCB) and open for all eligible Bidder.
4. Eligible Bidders may obtain the complete set of Bid Document from Rasuwagadhi Hydropower Company Limited, Lazimpat, Kathmandu, Nepal during office hours on submission of a written application accompanied by notarized copies of 1) Firm Registration Certificate, 2) VAT Registration Certificate, 3) Income Tax Registration and 4) Bank Voucher evidencing the deposit of non-refundable cash amount as mentioned in table above.

Bidder who chooses to submit their bid electronically may purchase the hard copy of the bidding documents as mentioned above or may download the bidding documents for e-submission from e-procurement section of RGHPCL's website [www.rghpcl.com.np](http://www.rghpcl.com.np) which will be further directed to Chilime's E-procurement web portal. Bidders, submitting their bid electronically, should deposit the cost (as specified above) of bidding document in the Company's account as specified below and the scanned copy (.pdf format) of the Bank deposit voucher shall be uploaded by the bidder at the time of electronic submission of the bids. Hard copy of electronically bided documents shall be submitted to office within 7 days after opening of bid.

5. The number of partners in Joint Venture is limited to three (3). The share of lead partner shall not be less than 51% while those of other partners shall not be less than 24% each.
6. Bid Proposal shall be sealed in a single envelope and submitted to Rasuwagadhi Hydropower Company Limited, Kathmandu, Nepal on date and time mentioned in table above. One (1) set of original and one (1) set of duplicate bid document shall be submitted. Documents received after this deadline and timeline shall not be accepted.
7. Bids shall be opened as mentioned in the table above at the office of Rasuwagadhi Hydropower Company Limited, Kathmandu, Nepal in the presence of Bidders' representatives, if any. Bids must be valid for a period of 120 days counting from the day of Bid opening and must be accompanied by Bid security, amounting to NRs



4,450,000/- which shall be valid for minimum 30 days beyond the Bid validity period in favor of Rasuwagadhi Hydropower Company Limited.

8. If any information/data provided in the Submitted Bid is unclear, illegible or not substantiated by supporting document, such information/data shall not be taken into account for qualification.
9. If the last date of Bid submission/opening falls on a Government holiday, the same time of next working day shall be considered for such events.
10. Pre-bid meeting will be held at 14:00 hours on 22<sup>nd</sup> December 2016 at Employer's office in Lazimpat, Kathmandu. Attendance is strongly advised to all the qualified bidders.
11. It is recommended that bidders familiarize themselves with the local conditions and visit the project site. Costs incurred for preparation of bid documents and the site visit will be solely at the expenses of bidders.
12. RGHPCCL reserves the right to accept or reject any Bid, partly or wholly, or cancel the Bid altogether, at any time prior to Contract award, without thereby incurring any liability to the affected Bidder or Bidders and without assigning any reason whatsoever.
13. Eligible Bidders may obtain further information at the office of Rasuwagadhi Hydropower Company Limited, Lazimpat, Kathmandu, Nepal, or from company website [www.rghpcl.com.np](http://www.rghpcl.com.np)

**Address:**

The Chief Executive Officer  
Rasuwagadhi Hydropower Company Limited  
Lazimpat, Kathmandu  
Phone: 01-4002044/4002046  
Fax: 01-4002045  
E-mail: [rghpcl@gmail.com](mailto:rghpcl@gmail.com); [info@rghpcl.com.np](mailto:info@rghpcl.com.np)


VOLUME I

SECTION II

INSTRUCTIONS TO BIDDERS (ITB)



## INSTRUCTIONS TO BIDDERS

### A. General

#### 1. Scope of Bid

- 1.1 The Employer as defined in the Bidding Data invites Bids for the construction of Works, as described in the Bidding Data. The name and identification number of the Contract are provided in the Bidding Data.

The successful Bidder will be expected to complete the Works by the Intended Completion Date specified in the Bidding Data and Special Conditions of Contract (SCC).

#### 2. Source of Funds

- 2.1 The Government of Nepal has made budgetary allocation or intends to apply part of the funds of a loan/credit/grant from the Donor Agency, as defined in the Bidding Data towards the cost of the Project, as defined in the Bidding Data, to cover eligible payments under the Contract for the Works. Payments by the Donor Agency will be made only at the request of GoN and upon approval by the Donor Agency in accordance with the loan/credit/grant agreement, and will be subject in all respects to the terms and conditions of that agreement. Except as the Donor Agency may specifically otherwise agree, no party other than GoN shall derive any rights from the loan/credit/grant agreement or have any rights to the loan/credit/grant proceeds.

#### 3. Eligible Bidders

- 3.1 This invitation for Bids is open to all registered Bidders with qualifications as described in the Bidding Data.
- 3.2 All Bidders shall provide in Section III, Forms of Bid and Qualification Information, a statement that the Bidder (including all members of a joint venture and subcontractors) is not associated, nor has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Employer to provide consulting services for the preparation or supervision of the Works, and any of its affiliates, shall not be eligible to Bid.
- 3.3 Government-owned enterprises may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Employer.

#### 4. Qualification of the Bidder

- 4.1 All Bidders shall provide in Section III, Forms of Bid and Qualification Information, a preliminary description of the proposed work method and schedule, including drawings and charts, as required in the Qualification Information.
- 4.2 In the event that prequalification of potential Bidders has been undertaken, only Bids from prequalified Bidders will be considered for award of Contract. These qualified Bidders should submit with their Bids, unless otherwise stated in the Bidding Data any information updating their original prequalification applications or, alternatively, confirm in their Bids that the

originally-submitted prequalification information remains essentially correct as of the date of bid submission. The update or confirmation should be provided in Section III.

- 4.3 If the Employer has not undertaken prequalification of potential Bidders, all Bidders shall include the following information and documents with their Bids in Section III, unless otherwise stated in the Bidding Data:
- a. Copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the bid to commit the Bidder;
  - b. Total monetary value of construction work performed for each of the last ten years;
  - c. Experience in works of a similar nature and size for each of the last ten years, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts (to comply with this requirement, works cited shall be at least 80% complete);
  - d. Major items of construction equipment proposed to carry out the Contract;
  - e. Qualifications and experience of key site management and technical personnel proposed for the Contract;
  - f. Reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past ten years;
  - g. Evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
  - h. Authority to seek references from the Bidder's bankers;
  - i. Information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
  - j. Proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.
- 4.4 Bids submitted by a joint venture of two or more firms as partners, limitation of number of partners as specified in Bidding Data, shall comply with the following requirements, unless otherwise stated in the Bidding Data:
- a. The bid shall include all the information listed in Sub-Clause 3 above for each joint venture partner;
  - b. The bid shall be signed so as to be legally binding on all partners;
  - c. All partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;



- d. One of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and this authorization shall be evidenced by submitting a power of attorney signed by legally authorized signatories of all the partners; and
  - e. The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
- 4.5 To qualify for award of the Contract, Bidders shall meet the following minimum qualifying criteria:
- a. General Work Experience as a sole prime contractor or management contractor or partner of joint venture association or sub contractor as specified in Bidding Data;
  - b. Average annual volume of construction work completed as a sole prime contractor or management contractor or partner of joint venture association or sub contractor in the last ten years of at least the amount specified in the Bidding Data;
  - c. Successful specific experience as prime contractor or management contractor or partner of joint venture association or sub contractor in the construction of at least the number of works, each with a value as specified in Bidding Data of a nature and complexity equivalent to the Works in the last ten years (to comply with this requirement, works cited shall be at least 80 percent complete);
  - d. Liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified in the Bidding Data;
  - e. A Contract Manager with five years' experience in works of an equivalent nature and volume, including no less than three years as Contract Manager and other personnel as specified in the Bidding Data; and
  - f. Proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment in working condition for the contract duration listed in the Bidding Data.
- 4.6 The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub-Clause 4.5 above. However, for a joint venture to qualify, each of its partners must meet the qualifying criteria of 4.5 (a); at least the percentage specified in Bidding Data of minimum criteria 4.5(b) and (d) for an individual Bidder and the partner in charge at least the percentage specified in the Bidding Data of minimum criteria 4.5 (b); (c) and (d). Failure to comply with this requirement will result in rejection of the joint venture's bid. Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria, unless otherwise stated in the Bidding Data.
- 4.7 The values of Turnover and Specific work experiences pursuant to Sub-Clause 4.5(b) and (c) will be brought to the current value using the annual inflation rate (National Urban Consumer Price Index; Overall Index) published by Nepal Rastra Bank.
- 4.8 Domestic Bidders and joint ventures of domestic and foreign Bidders applying for eligibility for a domestic margin of preference in bid evaluation shall supply all information to satisfy the criteria for eligibility as described in Clause 30 of these Instructions to Bidders.
- 4.9 The offered Goods shall be in conformity with the specifications. The Bidder shall fill in technical Data Sheet provided in the Bidding document. In order to prove that the Goods offered are in conformity with the specifications, the Bidder shall furnish documentary

evidence in the form of literature (catalogue), drawings, detailed description of Goods with essential technical and performance characteristics and type test reports wherever called for. The type tests as per the latest version of relevant standard mentioned in the specification. The type test conducted earlier than five (5) years from the last date of submission of bids shall not be acceptable.

The Bidder shall fill in all the bidding forms provided in the Bidding document and shall furnish the information required by these forms.

## 5. One Bid per Bidder

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

## 6. Cost of Bidding

6.1 The Bidder shall bear all costs associated with the preparation and submission of his bid, and the Employer will in no case be responsible or liable for those costs.

## 7. Site Visit

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

## B. Bidding Documents

### 8. Contents of Bidding Documents

8.1 The set of Bidding Documents provided by the Employer comprises the documents listed in the table below and addenda issued in accordance with Clause 10:

VOLUME I:	TENDERING PROCEDURES
Section I:	Invitation for Bids
Section II:	Instructions to Bidders
Section III:	Sample Forms of Bid, Qualification Information, Letter of Acceptance and Agreement
Section IV:	General Conditions of Contract (GCC)
Section V:	Special Conditions of Contract (SCC)
VOLUME II	EMPLOYERS REQUIREMENT
Section VI:	Specifications
Section VII:	Drawings
VOLUME III:	FINANCIAL PROPOSAL
Section VIII:	Price Schedules
Section IX:	Forms of Securities

## 9. Clarification of Bidding Documents

- 9.1 A prospective Bidder requiring any clarification of the Bidding documents may notify the Employer in writing or by fax at the Employer's address indicated in the Invitation for Bids or Bidding Data. The Employer will respond to any request for clarification received earlier than the number of days prior to the deadline for submission of Bids as specified in the Bidding Data. Copies of the Employer's response will be forwarded to all purchasers of the Bidding documents, including a description of the inquiry, but without identifying its source.

## 10. Amendment of Bidding Documents

- 10.1 Before the deadline for submission of Bids, the Employer may modify the Bidding documents by issuing addenda.
- 10.2 Any addendum thus issued shall be part of the Bidding documents and shall be communicated in writing or by fax to all purchasers of the Bidding documents. Prospective Bidders shall acknowledge receipt of each addendum by fax to the Employer.
- 10.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer shall extend, as necessary, the deadline for submission of Bids, in accordance with Sub-Clause 20.2 below.

## C. Preparation of Bids

### 11. Language of Bid

- 11.1 All documents relating to the bid shall be in English.

### 12. Documents Comprising the Bid

- 12.1 The bid submitted by the Bidder shall comprise the following:
- i. The bid (in the format indicated in Section III including SCC);
  - ii. Bid Security;
  - iii. Priced Bill of Quantities;
  - iv. Qualification Information Form and Documents;
  - v. Information on eligibility;
  - vi. Any other materials required to be completed and submitted by Bidders, as specified in the Bidding Data.

### 13. Bid Prices

- 13.1 The Contract shall be for the whole Works, as described in Sub-Clause 1.1, based on the priced Bill of Quantities submitted by the Bidder.
- 13.2 The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities. Items for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.

- 13.3 All duties, taxes and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 30 days prior to the deadline for submission of Bids, shall be included in the rates, prices and total Bid Price submitted by the Bidder.
- 13.4 The rates and prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract if provided for in the Bidding Data and SCC and the provisions of Clause 46 of the General Conditions of Contract. The Bidder shall submit with the bid all the information required under the SCC and Clause 46 of the General Conditions of Contract.
- 13.5 Local Agent: Statement and disclosure of Local Agent.

A foreign Bidder wishing to have or already having a local agent should state the following:

- a. Name and address of the agent/representative.
- b. The agent/representative providing type of services.
- c. Amount of commission the agent/representative is entitled to receive, currency of payment and procedure of payment.
- d. Other agreement with agent/representative, if any.
- e. In case the agent/representative is a Nepali citizen or firm then the attested copy of PAN and letter of acceptance to be the local agent
- f. The Bidder should certify as follows:  
*"We certify that the statement and disclosure made by us on the above are complete and true to the best of our knowledge and belief".*

If the agent has not been appointed:

- a. Source of information about tender invitation,
  - b. The remuneration given to the individual or firm/company or organization to work on his behalf for submitting tender, representation in the bid opening and other required action in connection with the tender,
  - c. Transfer or handover an evidence of foreign currency exchanged which required to be submitted with the tender,
  - d. If the bank account of any Nepali citizen has been used for the exchange of foreign currency specify the name of the individual and his address. If the foreign currency has been exchanged by self then the certificate of currency exchanged issued by the bank.
- 13.6 If a foreign Bidder in his Bid, has not provided the information mentioned in Sub Clause 13.5 or has submitted his bid stating that the Bidder does not have a local agent and later it is proved that the bidder has a local agent or it is proved that the commission mentioned in the Bid is less than the commission received by the local agent then the Employer shall initiate proceedings to black list such bidder.
- 13.7 Discount: If the Bidder intends to offer any discount, it should always be expressed in percentage and that will be applicable to each unit rate

#### **14. Currencies of Bid and Payment**

- 14.1 The unit rates and prices shall be quoted by the Bidder entirely in Nepalese Rupees. Foreign currency requirements of the Bidder, if any, for import of equipment and materials not produced or not available in Nepal shall be indicated as a percentage of the Bid Price (excluding provisional sums) and shall be paid by the Employer in the foreign currencies so specified by the Bidder as an Advance Payment pursuant to Clause 50 of the General Conditions of Contract up to a limit of 20% of the contract price. Foreign currency shall be payable at the option of the Bidder in up to three foreign currencies of any country acceptable to the Employer.
- 14.2 The rates of exchange to be used by the Bidder in arriving at the local currency equivalent and the percentage(s) mentioned in Sub-Clause 14.1 above shall be the selling exchange rates used for similar transactions as published by Nepal Rastra Bank prevailing on the date 28 days prior to the latest deadline for submission of Bids. These exchange rates shall apply for all payments including Advance Payment to be made by the Employer pursuant to Clause 50 of the General Conditions of Contract so that no exchange risk will be borne by the Bidder. If the Bidder uses other rates of exchange, the provisions of Sub-Clause 28.1 shall apply. In any case, payments will be computed using the rates quoted in the bid.
- 14.3 Bidders shall indicate details of their expected foreign currency requirements in the bid.
- 14.4 Bidders may be required by the Employer to clarify their foreign currency requirements and to substantiate that the amounts included in the rates and prices and in the SCC are reasonable and responsive to Sub-Clause 14.1.

#### **15. Bid Validity**

- 15.1 Bids shall remain valid for the period specified in the Bidding Data.
- 15.2 In exceptional circumstances, the Employer may request that the Bidders extend the period of validity for a specified additional period. The request and the Bidders' responses shall be made in writing or by fax. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request will not be required or permitted to otherwise modify the bid, but will be required to extend the validity of Bid Security for the period of the extension, and in compliance with Sub-Clause 16 in all respects.
- 15.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), if the period of bid validity is extended beyond 56 days, the amounts payable in local and foreign currency to the Bidder selected for award shall be increased by applying to both the local and the foreign currency component of the payments, respectively, the factors specified in the Bidding Data or in the request for extension, for the period of delay beyond 56 days after the expiry of the initial bid validity, up to the notification of award. Bid evaluation will be based on the Bid Prices without taking the above correction into consideration.

#### **16. Bid Security**

- 16.1 The Bidder shall furnish, as part of the bid, a Bid Security in Nepalese Rupees in the amount specified in the Invitation for Bids.

- 16.2 The Bid Security shall, at the Bidder's option, be in the form of earnest money, bank draft or a bank guarantee from a reputable bank in Nepal acceptable to the Employer. The format of the bank guarantee shall be in accordance with the form of Bid Security included in Section IX; other formats may be permitted, subject to the prior approval of the Employer. The Bid Security shall remain valid for a period of 30 days beyond the original validity period for the bid and any period of extension subsequently requested under Sub-Clause 15.2.
- 16.3 Any bid not accompanied by an acceptable Bid Security shall be rejected by the Employer. The Bid Security of a joint venture must define as "Bidder" all joint venture partners and list them in the following manner: a joint venture consisting of "\_\_\_\_," "\_\_\_\_," and "\_\_\_\_\_".
- 16.4 The Bid Security of unsuccessful Bidders will be returned within 30 days of the end of the bid validity period specified in Sub-Clause 15.1.
- 16.5 The Bid Security of the successful Bidder will be discharged when the Bidder has signed the Agreement and furnished the required Performance Security.
- 16.6 The Bid Security may be forfeited
- a. If the Bidder withdraws the bid after bid opening during the period of bid validity; or
  - b. If the Bidder does not accept the correction of the Bid Price, pursuant to Clause 27; or
  - c. in the case of a successful Bidder, if the Bidder fails within the specified time limit to
    - (i) Sign the Agreement; or
    - (ii) Furnish the required Performance Security.

## 17. Alternative Proposals by Bidders

- 17.1 Bidders shall submit offers that comply with the requirements of the Bidding documents, including the basic technical design as indicated in the Drawings and Specifications. Alternatives will not be considered unless specifically allowed in the Bidding Data. If so allowed, Sub-Clause 17.2 shall govern.
- 17.2 If so allowed in the Bidding Data, Bidders wishing to offer technical alternatives to the requirements of the Bidding documents must also submit a bid that complies with the requirements of the Bidding documents, including the basic technical design as indicated in the Drawings and Specifications. In addition to submitting the basic bid, the Bidder shall provide all information necessary for a complete evaluation of the alternative by the Employer, including design calculations, technical specifications, breakdown of prices, proposed construction methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer.

## 18. Format and Signing of Bid

- 18.1 The Bidder shall prepare one original of the documents comprising the bid as described in Clause 12 of these Instructions to Bidders, bound with the volume containing the form of bid, and clearly marked "ORIGINAL." In addition, the Bidder shall submit one copy of the bid clearly marked as "COPY." In the event of discrepancy between them, the original shall prevail.
- 18.2 The original and a copy of the bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorised to sign on behalf of the Bidder. This authorization shall

consist of a written confirmation as specified in the Bidding Data and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be initialled by the person or persons signing the bid.

- 18.3 The bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the bid.
- 18.4 The Bidder shall furnish information as described in the form of bid on commissions or gratuities, if any, paid or to be paid to agents relating to this bid, and to contract execution if the Bidder is awarded the Contract.

#### **D. Submission of Bids**

##### **19. Submission, Sealing and Marking of Bids**

- 19.1 The Bidder shall seal the original and a copy of the bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as “ORIGINAL” and “COPY”.
- 19.2 The inner and outer envelopes shall:
- a. be addressed to the Employer at the address provided in the Bidding Data;
  - b. bear the name and identification number of the Contract as defined in the Bidding Data and SCC; and
  - c. provide a warning not to open before the specified time and date for bid opening as defined in the Bidding Data..
- 19.3 In addition to the identification required in Sub-Clause 19.2, the outer envelopes shall indicate the name and address of the Bidder to enable the bid to be returned unopened in case it is declared late, pursuant to Clause 21.
- 19.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the bid.

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

- 20.1 Bids shall be delivered to the Employer at the address specified in the Bidding Data no later than the time and date specified in the Bidding Data.
- 20.2 The Employer may extend the deadline for submission of Bids by issuing an amendment in accordance with Clause 10, in which case all rights and obligations of the Employer and the Bidders previously subject to the original deadline will then be subject to the new deadline.

##### **21. Late Bids**

- 21.1 Any bid received by the Employer after the deadline prescribed in Clause 20 will be returned unopened to the Bidder.

## 22. Withdrawal, and Modification of Bids

- 22.1 Bidders may withdraw or modify their Bids after it has been submitted by giving a written notice, duly signed by an authorized representative and shall include a copy of the authorization in accordance with Clause 18.2 before the deadline prescribed in Clause 20. The corresponding modification of the bid must accompany the respective written notice.
- 22.2 Each Bidder's withdrawal or modification notice shall be prepared, sealed, marked, and delivered in accordance with Clauses 18 and 19, with the outer and inner envelopes additionally marked "WITHDRAWAL" or "MODIFICATION" as appropriate.
- 22.3 No bid may be modified after the deadline for submission of Bids.
- 22.4 Withdrawal of a bid between the deadline for submission of Bids and the expiration of the period of bid validity specified in the Bidding Data or as extended pursuant to Sub-Clause 15.2 may result in the forfeiture of the Bid Security pursuant to Clause 16.
- 22.5 Bidders may only offer discounts to, or otherwise modify the prices of their Bids by submitting bid modifications in accordance with this clause, or included in the original bid submission. Intended discount offer should always be expressed in percentage to be applied to each unit rate.

## E. Bid Opening and Evaluation

### 23. Bid Opening

- 23.1 The Employer will open the Bids, including modifications made pursuant to Clause 22, in the presence of the Bidders' representatives who choose to attend at the time and in the place specified in the Bidding Data.
- 23.2 First envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next envelopes marked "Modification" shall be opened and read out with the corresponding bid. No bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at bid opening. Only envelopes that are opened and read out at the bid opening shall be considered further.
- 23.3 The Bidders' names, the Bid Prices, the total amount of each bid and of any alternative bid (if alternatives have been requested or permitted), any discounts, bid withdrawal and modification, the presence or absence of Bid Security, difference of rate in words and figures, quoted price for alternate technical specification if proposed, whether the Bid Form has signature of the bidder or authorized representative, corrections/effacement or obliteration in bidding document, any remarks made by the bidder in the Bid Form, details of rates if requested and such other details as the Employer may consider appropriate will be announced by the Employer at the bid opening.
- 23.4 The Employer will prepare minutes of the bid opening, including the information disclosed to those present in accordance with Sub-Clause 23.3.



## **24. Process to Be Confidential**

- 24.1 Information relating to the examination, clarification, evaluation and comparison of Bids and recommendations for the award of contract shall not be disclosed to Bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced.

## **25. Clarification of Bids and Contacting the Employer**

- 25.1 To assist in the examination, evaluation and comparison of Bids, the Employer may, at the Employer's discretion, ask any Bidder for clarification of the Bidder's bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by facsimile, but no change in the price or substance of the bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the Bids in accordance with Clause 27.
- 25.2 Subject to Sub-clause 25.1, no Bidder shall contact the Employer on any matter relating to his bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, he should do so in writing.
- 25.3 Any efforts by the Bidder to influence the Employer in the Employer's bid evaluation, bid comparison or contract award decisions may result the rejection of the Bidder's bid.
- 25.4 In case of e-submission of bid, the Bidder shall be required to submit the original Completed Bid consisting of Forms of Bid, Qualification Information, Bill of Quantities etc. as listed in Special Instruction to Bidders for e-bidding Clause A (ii) for verification purpose upon notification to do so from Employer within 7 days.

## **26. Examination of Bids and Determination of Responsiveness**

- 26.1 Prior to the detailed evaluation of Bids, the Employer will determine whether each bid (a) meets the eligibility criteria defined in Clause 3; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the Bidding documents.
- 26.2 A substantially responsive bid is one which conforms to all the terms, conditions, and specifications of the Bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Works; (b) which limits in any substantial way, inconsistent with the Bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other Bidders presenting substantially responsive Bids.
- 26.3 If a bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

## **27. Correction of Errors**

- 27.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:
- a. where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
  - b. where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected.
- 27.2 The amount stated in the bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the bid will be rejected and the Bid Security may be forfeited in accordance with Sub-Clause 16.6(b).

## **28. Currency for Bid Evaluation**

- 28.1 Bids will be evaluated as quoted in Nepalese Rupees in accordance with Sub-Clause 14.1, unless a Bidder has used different exchange rates than those prescribed in Sub-Clause 14.2, in which case the bid will be first converted into the amounts payable in different currencies using the rates quoted in the bid and then reconverted to Nepalese Rupees using the exchange rates prescribed in Sub-Clause 14.2.

## **29. Evaluation and Comparison of Bids**

- 29.1 The Employer will evaluate and compare only the Bids determined to be substantially responsive in accordance with Clause 26.
- 29.2 In evaluating the Bids, the Employer will determine for each bid the evaluated Bid Price by adjusting the Bid Price as follows:
- a. making any correction for errors pursuant to Clause 27;
  - b. excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities, but including Day work, where priced competitively;
  - c. making an appropriate adjustment for any other acceptable variations, deviations or alternative offers submitted in accordance with Clause 17; and
  - d. making appropriate adjustments in unit rates to reflect discounts or other price modifications offered in accordance with Sub-Clause 22.5.
- 29.3 Further the employer shall evaluate:
- a. Weather the construction work plan, work performance schedule and mobilization period is consistent with the requirement of the bidding document or not,
  - b. Weather the quoted item unit rates in the Bill of quantities are reliable or not,
  - c. Weather or not the quoted price is unbalanced due to unnaturally high rates quoted by the bidder for work items to be completed in the initial stages of the contract or for work items whose quantities are assumed by the bidder to be underestimated.
- 29.4 If the bid, which results in the lowest Evaluated Bid price, is unbalanced or frontloaded in relation to the Employer's estimate of the items of Work to be performed under the contract pursuant to Sub- Clause 29.3, the Employer shall ask the bidder to give clarification with

detailed rate analysis for any or all items of the Bill of Quantities. If the clarification is found satisfactory then the Employer shall increase at the expense of the bidder the performance security set forth in Clause 34 by an additional 8% of the quoted amount to protect the Employer against financial loss in the event of default of the successful bidder under the contract and if the clarification is found unsatisfactory then the Employer may reject such bid.

- 29.5 The Employer reserves the right to accept or reject any variation deviation or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in bid evaluation.
- 29.6 The estimated effect of any price adjustment conditions under Clause 46 of the General Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in bid evaluation.

### **30. Preference for Domestic Bidders**

- 30.1 Domestic Bidders shall provide all evidence necessary to prove that they meet the following criteria to be eligible for a margin of preference stated below in the comparison of their Bids with those of Bidders who do not qualify for the preference.
- 30.2 Domestic Bidders which meet the following criteria shall be given a preference as specified in the Bidding Data.
- a. For an individual firm or joint venture of firms:
    - i. Each firm is registered in Nepal;
    - ii. Each firm has more than 50 percent ownership by nationals of Nepal;
    - iii. Will not subcontract more than 50 percent of the total value of the Works to foreign contractors;
    - iv. Satisfies any other criteria specified for the purpose of domestic preference eligibility in the Bidding Data.
  - b. For a joint venture between domestic and foreign firms:
    - i. Each domestic firm is eligible for the preference according to the criteria stated in Clause 30.2 (a) above;
    - ii. At least 50 percent interest in the joint venture is held by the Nepalese firms as demonstrated by the profit and loss sharing provisions of the joint venture agreement;
    - iii. Will not subcontract more than 50% of the total value of the works to the foreign partner or other foreign firms;
    - iv. Satisfies any other criteria specified for the purpose of domestic preference eligibility in the Bidding Data.
- 30.3 The following procedure will be used to apply the margin of preference:
- a. Responsive Bids will be classified into the following groups:
    - i. Group A: Bids offered by domestic Bidders and joint ventures meeting the respective criteria of Sub-Clause 30.2 above; and
    - ii. Group B: all other Bids.

- b. If Domestic preference is applicable as per Bidding Data provision of Sub Clause 30.2 then for the purpose of further evaluation and comparison of Bids only, an amount equal to the specified domestic preference percentage of the evaluated Bid Prices determined in accordance with Sub-Clause 29.2 will be added to all Bids classified in Group B.

## **F. Award of Contract**

### **31. Award Criteria and Intention to Award**

- 31.1 Subject to Clause 32, the Employer will select and award the Contract to the Bidder whose bid has been determined to be substantially responsive to the Bidding documents and who has offered the lowest evaluated Bid Price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of Clause 3 and (b) qualified in accordance with the provisions of Clause 4.
- 31.2 The Employer shall notify its intention to award the Contract to the selected bidder in accordance with Sub-Clause 31.1 within 7 days of selection of his bid. Further, the employer shall also provide information regarding the name, address and the contract amount of the successful bidder to all the bidders who participated in the bid.
- 31.3 Any Bidder who is not satisfied with the procurement process or Employer's decision provided as per Sub - Clause 31.2 and believes that the Employer has committed an error or breach of duty which has or will result in loss to the bidder then the bidder may give an application for review of the decision to the Employer with reference to the error or breach of duty committed by the Employer. The review application should be given within 7 days of receipt of information regarding the issue of letter by the Employer notifying it's intention to award the contract to the successful bidder.
- 31.4 If the review application is not received by the Employer pursuant to Sub-Clause 31.3 then the bid of the Bidder selected as per Sub-Clause 31.1 shall be accepted by the Employer.

### **32. Employer's Right to Accept any Bid and to Reject any or all Bids**

- 32.1 Notwithstanding Clause 31, the Employer reserves the right to accept or reject any bid, and to cancel the Bidding process and reject all Bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders of the grounds for the Employer's action.

### **33. Notification of Award and Signing of Agreement**

- 33.1 The Bidder whose bid has been accepted in accordance with Sub-Clause 31.4 will be notified of the award by the Employer prior to expiration of the bid validity period by facsimile confirmed by registered letter. This letter (hereinafter and in the General Conditions of Contract called the "Letter of Acceptance") will state the sum that the Employer will pay the Contractor in consideration of the execution, completion and maintenance of the Works by the Contractor as prescribed by the Contract (hereinafter and in the Contract called the "Contract Price").

- 33.2 The notification of award will constitute the formation of the Contract, subject to the Bidder furnishing the Performance Security in accordance with Clause 34 and signing the Agreement in accordance with Sub-Clause 33.3.
- 33.3 The Agreement will incorporate all agreements between the Employer and the successful Bidder. It will be signed by the Employer and sent to the successful Bidder with the notification of award along with the Letter of Acceptance. Within 15 days of receipt, the successful Bidder shall sign the Agreement and deliver it to the Employer.
- 33.4 Upon the furnishing by the successful Bidder of the Performance Security, the Employer will promptly notify the other Bidders that their Bids have been unsuccessful.

#### **34. Performance Security**

- 34.1 Within 15 days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in the amount stipulated in the SCC and in the form stipulated in the Bidding Data, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the General Conditions of Contract.
- 34.2 If the Performance Security is provided by the successful Bidder in the form of a bank guarantee, it shall be issued, at the Bidder's option, either (a) by a bank located in Nepal acceptable to the Employer or (b) a foreign bank through a correspondent bank located in Nepal.
- 34.3 Failure of the successful Bidder to comply with the requirements of Sub-Clause 34.1 and Sub-Clause 29.4 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security.

#### **35. Advance Payment and Security**

- 35.1 The Employer shall make an Advance Payment on the Contract Price as stipulated in the General Conditions of Contract, subject to a maximum amount as stated in the Bidding Data.

#### **36. Additional Securities**

- 36.1 The Contractor shall provide additional Performance Security pursuant to Sub-clause 29.4. Failure to do so shall result in forfeiture of the Bid Security and award of the Contract to the next lowest evaluated substantially responsive Bidder.

#### **37. Adjudicator/ Dispute Resolution Board**

- 37.1 If any dispute arises between the Employer and the Contractor in connection with the execution of the Contract, the parties shall attempt to settle such dispute amicably. If the parties fail to resolve the dispute amicably then the dispute may be referred to the Adjudicator or Dispute Resolution Board (DRB) as specified in the Bidding Data by either party in writing.
- 37.2 If Adjudicator is specified pursuant Sub-Clause 37.1, the Employer proposes the person named in the Bidding Data to be appointed as Adjudicator under the Contract, at the hourly fee as specified in Bidding Data plus reimbursable expenses. If the Bidder disagrees with this

proposal, the Bidder should so state in his Bid. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator, the Employer will request the Appointing Authority designated in the SCC pursuant to Clause 24.1 of the General Conditions of Contract (GCC), to appoint the Adjudicator.

### **38. Corrupt or Fraudulent Practices**

- 38.1 The GoN requires that the Employer as well as Bidders observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, the GoN:
- a. defines, for the purposes of this provision, the terms set forth below as follows:
    - i. “corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
    - ii. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish Bid Prices at artificial noncompetitive levels and to deprive the Employer of the benefits of free and open competition;
  - b. will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question; and
  - c. will declare a firm ineligible for a stated period of time, to be awarded a GoN funded contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GoN -funded contract.

### **39. Conduct of Bidders**

- 39.1 The Bidder shall be responsible to fulfill his obligations as per the requirement of the Contract Agreement, Bidding documents, GoN’s Procurement Act and Regulations.
- 39.2 The Bidder shall not carry out or cause to carryout the following acts with an intention to influence the implementation of the procurement process or the procurement agreement:
- a) Give or propose improper inducement directly or indirectly,
  - b) Distortion or misrepresentation of facts
  - c) Engaging or being involved in corrupt or fraudulent practice
  - d) Interference in participation of other prospective bidders.
  - e) Coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
  - f) Collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Employer the benefit of open competitive bid price]
  - g) Contacting the Employer wit an intention to influence the Employer with regards to the bid or interference of any kind in examination and evaluation of the bids during the period after opening of bids up to the notification of award of contract

#### 40. Blacklisting Bidder

- 40.1 Without prejudice to any other right of the Employer under this contract, GoN, Public Procurement Monitoring Office may blacklist a bidder for his conduct up to three years on the following grounds and seriousness of the act committed by the bidder:
- a) If it is proved that the bidder committed acts pursuant to the clause 39.2,
  - b) If the bidder fails to sign an agreement pursuant to clause 28.4,
  - c) If it is proved later that the bidder/contractor has committed substantial defect in implementation of the contract or has not substantially fulfilled his obligations under the contract or the completed work is not of the specified quality as per the contract,
  - d) If convicted by a court of law in a criminal offence which disqualifies the bidder from participating in the contract.
  - e) If it is proved that the contract agreement signed by the bidder was based on false or misrepresentation of bidder's qualification information
  - f) Other acts mentioned in the Bidding Data
- 40.2 A firm declared blacklisted and ineligible by the GoN and or concerned Donor Agency in case of donor funded project shall be ineligible to bid for a contract during the period of time determined by the PPMO and or the concerned donor agency.

## Bidding Data

### Instruction to Bidders Clause References

#### A. General

ITB 1.1	<p>The Employer is: Rasuwadhi Hydropower Company Limited Rasuwadhi Hydroelectric Project (111 MW)</p> <p>The Work is: <i>Construction of about 10.5 km long 132kV D/C transmission line on self-standing, galvanized latticed steel towers with ACSR "Bear" conductor and stringing optical ground wire and galvanized steel ground wire between the Rasuwadhi Hydroelectric Project Switchyard to Chilime Hub, including design, manufacture, shop test, supply, erection, stringing, field testing and commissioning all complete.</i></p> <p>Tender Identification Number: <i>RGHPCL/RGHEP/073/74/TL-01</i></p> <p>The Intended Completion date is: <i>Eighteen (18) months from the Commencement Date issued by the Employer.</i></p>
ITB 2.1	<p>The Source of Fund: <i>Rasuwadhi Hydropower Company Limited</i> The "Donor" means: <i>Not Applicable</i></p>
ITB 3	<p>Add the following after ITB 3: <i>"Bidder" shall mean a legally registered entity submitting the Bid proposal. The entity may be a supplier or manufacturer of the tendered Goods or contractor or any combination of them in the form of a Joint Venture as specified in Qualification Requirements.</i></p> <p><i>"Joint Venture" shall mean a legally enforceable association constituted by legally registered entities with the purpose of committing the obligations required by the Bid.</i></p> <p><i>"Goods" shall mean equipment, plant, goods, materials etc. to be supplied and installed for the completion of the work as particularly described in the specifications.</i></p>
ITB 3.1	<p>Bidder's Eligibility Requirements are:</p> <ol style="list-style-type: none"><li><i>Up to date Firm/Company Registration Certificate</i></li><li><i>Business Registration License</i></li><li><i>Nepalese Bidders and Nepalese JV partners must submit VAT and PAN Registration Certificates. In the case of JVs, the VAT registration certificate of the JV shall be furnished prior to the signing of Contract Agreement.</i></li><li><i>Tax Clearance Certificate or Submissions of Tax Clearance up to F/Y 2071/72</i></li><li><i>A written declaration made by the Bidder stating that the Bidder is not ineligible to participate in the Bid; has no conflict of interest in the proposed bid procurement proceedings and has not been punished for the profession or businesses related offence.</i></li><li><i>Joint Venture Authorization/ Agreement (if any) with clearly mentioned share structure</i></li><li><i>Power of Attorney</i></li><li><i>Other documents as needed</i></li></ol>



<p>ITB 4.3</p>	<p>Add the following at the end of ITB 4.3 a:          Power of Attorney shall be duly <b>notarized</b>.</p> <p>Delete ITB4.3 b and replace it with the following:  <i>Total monetary value of turnkey projects/supply/construction work performed in the <b>last five years</b>.</i></p> <p>Delete ITB4.3 c and replace it with the following:  <i>Experience in works of a similar nature and size for each of the <b>last five years</b>, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts (to comply with this requirement, works cited shall be at least 80% complete);</i></p> <p>Delete ITB4.3 f and replace it with the following:  <i>Reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past <b>three years</b>;</i></p>
<p>ITB 4.4</p>	<p><i>Maximum number of members in a Joint venture: <b>Three</b></i>  <i>The qualification data required from Bidders in Sub-Clause 4.4 are modified as follows:</i>  <i>Add the following clauses after ITB 4.4 e.</i></p> <p>f) <i>Original of joint venture agreement legally binding on all partners shall be included in the bid. The joint venture agreement shall bear the seal of the entities and signatures of personnel authorized by the respective entities forming the joint venture. All such authorization documents shall also be included in the bid. These authorization documents shall be on the original letterhead of the respective entity with stamp/seal of the entity.</i></p> <p>g) <i>The number of joint venture partners <b>shall not exceed three (3)</b>. The share of lead partner shall not be less than <b>51% while those of other partners shall not be less than 24% each</b>.</i></p> <p>h) <i>The Partners of the JV shall be a manufacturers or contractor legally registered for <b>at least five (5) years</b>.</i></p> <p>i) <i><b>Notarized</b> copies of legal registration certificates for each JV partners shall be submitted along with the bid.</i></p>
<p>ITB 4.5          (a), (b),          (c), (d)</p>	<p>The qualification of Bidder in Sub-clause 4.5 (a), (b), (c) (d) are modified as follows:</p> <p><b>1. Power of Attorney</b></p> <p><i>The bid shall include a notarized power of attorney authorizing the signatory of the bid to commit the bid on behalf of the bidder.</i></p>

**2. Legal Status**

**2.1 For the Bidder which is not a Joint Venture (JV):**

The bidder shall be a manufacturer or contractor legally registered in Nepal for **at least five (5) years** for conducting business similar to the one for which the bid is invited. A **notarized** copy of legal registration certificate shall be submitted along with the bid.

**2.2 For the JV Bidder:**

- a) Original of joint venture agreement legally binding on all partners shall be included in the bid. The joint venture agreement shall bear the seal of the entities and signatures of personnel authorized by the respective entities forming the joint venture. All such authorization documents shall also be included in the bid. These authorization documents shall be on the original letterhead of the respective entity with stamp/seal of the entity.
- b) The number of joint venture partners **shall not exceed three (3)**.
- c) Partners of the JV shall be manufacturers or contractors legally registered for **at least five (5) year in Nepal**.
- d) **Notarized** copies of legal registration certificates for each JV partners shall be submitted along with the bid.

**3. Project Experience (Work Experience)**

**3.1 For the Bidder which is not a Joint Venture (JV) :**

- a. The Bid shall include certificate from the end users validating that the Bidder has successfully completed the Supply, Construction, installation, testing and commissioning of at least one contract of similar nature in the last 10 years.

The bidder must have executed construction, Installation and commissioning of at least one transmission line project of 110 kV or higher voltage having minimum route length of 9 km including Tower erection , or number of similar projects whose aggregate route length is not less than the size of this Bid in last 10 (ten) years, all conducted in hilly terrain of similar undulation as that of the scope of this bid.

**If the bidder is previously not involved in design then the bidder shall propose the reputed designer with the experience of similar work and two user certificates in the last 10 years from the date of bid submission.**

- b. The end user's certificate included in the Bid shall be on the end

*user's original letterhead with valid address for correspondence and signed by or on behalf of the end user.*

**3.2 For the JV Bidder:**

- (a) The lead partner shall have completed Supply, Construction, Installation, Testing and Commissioning of at least 6 km route length of 110 kV or higher voltage transmission line. If the Bidder is previously not involved in design, then lead partner shall propose the reputed designer with the experience of similar work and two end use certificates in the last 10 years from the date of bid submission.*
- (b) Each of the other partner of the JV shall have completed the Supply, Construction, Installation, Testing and Commissioning of at least 3 km route length of 110kV or higher voltage transmission line in the last 10 years.*
- (c) The Bid shall include certificates from the end users for the lead partner and each of the partners validating that they have successfully completed the design (if the Bid involves design), supply, construction, installation and commissioning of projects of the size stated in 3.2 (a) and (b) above. The date in the end user certificates shall be of last ten (10) years from the last date of Bid submission.*
- (d) The JV partners experience when added together shall have successfully completed the design (if the Bid involves design), supply, construction, installation and commissioning of transmission line projects not less than the size of the Bid.*

**4. Financial Capacity of the Bidder**

**4.1 Financial Statements:**

*The bidder including joint venture partners, if any, shall submit audited financial statements (Balance Sheet and Profit and Loss Account) for the last three (3) fiscal years (F/Y : 2069/70,2070/071, 2071/072). Balance sheet and Profit & Loss Account must be signed and sealed by the registered auditor(s)/Practicing Chartered Accountant(s).*

**4.2 Line of Credit:**

*In the event that the working capital of the bidder (including each of the JV partner in the case of JV) is to be supplemented with the line of credit from a Bank, the bidder shall submit original letter of the Bank pledging unequivocally that the Bank will provide required financial support in the case the bidder is awarded the contract. The amount of line of credit shall be clearly mentioned in the Bank letter. The bid title and the bid number shall also be mentioned in the Bank letter.*

#### **4.3 Average Annual Turnover**

**(a) For the Bidder which is not a Joint Venture:**

The bidder must have an Average Annual Turnover (defined as the total payments received by the bidder averaged over last three consecutive years period) of at least **NPR 84,000,000.00** or equivalent.

**(b) For the JV Bidder:**

The Average Annual Turnover of the lead partner shall not be less than 51% of the amount stated above in sub-clause 4.3 (a). The Average Annual Turnover of other partners shall not be less than 25% of the amount stated in sub-clause 4.3 (a). Aggregate Annual Turnover of all the JV partners shall not be less than the values specified in sub-clauses 4.3 (a).

#### **4.4 Availability of Financial Resources (Working Capital)**

**(a) For the Bidder which is not a Joint Venture:**

The bidder shall have Working Capital (defined as total current assets less total current liabilities) of at least **NPR 32,000,000.00** or equivalent in the last Fiscal Year (Year 2071/2072).

If the bidder's Working Capital is inadequate, the bidder shall supplement this with Banker's letter confirming the availability of a line of credit such that the aggregate of the bidder's Working Capital for the last fiscal year and the line of credit shall not be less than the required amount.

**(b) For the JV Bidder:**

Working Capital of the lead partner shall not be less than 51% of the amount stated in sub-clause 4.4 (a). Working Capital of other partners shall not be less than 25% of the amount stated in sub-clause 4.4(a). Aggregate Working Capital (with line of Credit facilities) of all the JV Partners shall not be less the values specified in sub-Clause 4.4(a).

#### **4.5 Net Worth**

**(a) For the Bidder which is not a Joint Venture**

Net Worth shall not be negative in the last fiscal year.

**(b) For the Bidder which is a Joint Venture**

The Net Worth of the lead partner shall not be negative in the last fiscal year. Aggregate Net Worth of all the JV partners shall not be negative in the last fiscal year.

**5. Quality of Goods :**

5.1 In case the Bidder is not the manufacturer of Goods offered (Towers, ACSR Conductors, Insulator, Conductor accessories & hardwares, steel ground wires, OPGW and accessories) the Bidder shall submit manufacturer's certificate authorizing the Bidder to supply the manufacturer's Goods. This certificate shall bear details of the Goods, Contract number that manufacturer will be supplying under the authorization. The authorization shall be on the manufacturer's original letterhead with seal and stamp of the manufacturer.

5.2 The manufacturer of Goods (Towers, ACSR Conductors, Insulator, Conductor Accessories & Hardwares, steel ground wires, OPGW and accessories) to be supplied under this Bid shall hold valid quality with design ISO certificate as required by the specification and a copy of valid ISO certificate shall be included in the Bid.

5.3 Type test certificate of Goods offered (Towers, ACSR Conductors, Insulator, Conductor accessories & hardwares, steel ground wires and OPGW & accessories) shall be included in the Bid and shall bear a date that is not earlier than five (5) years from the last date of Bid submission. The type test certificate shall have been issued by a reputed independent laboratory accredited by International Laboratory Accreditation Corporation (ILAC) or International Accreditation forum (IAF) or other reputed accreditation agencies.

In case of the Type test certificate is not as per the requirement, the bidder shall, upon award of the contract, undertake to carry out the required type test from an independent laboratory qualified as above or in a laboratory owned or nominated by the client/Employer before delivery of the corresponding equipment at no extra cost to the Client/Employer.

**6 Manufacturer's experience**

The Bidder shall submit at least two numbers of end user certificates showing that the manufacturer has successfully completed the supply of minimum 50 number of Lattice self standing towers for 110 kV or higher Transmission Lines, minimum 150 km of ACSR "Bear" or larger size ACSR conductor and steel ground wire, minimum 20 km of OPGW (24 core or higher single-mode fiber) and minimum 3000 nos. of Insulators of specified type as a main supplier over last five (5) years period ending on the last date of Bid submission. Out of supplied quantity a minimum of half the bid quantity of offered items (Towers, ACSR Conductors, Insulator, steel ground wire, OPGW and accessories) shall have been in operation satisfactorily to the end users for at least one (1) year. The end user certificate shall be on the letterhead of end user with valid address for correspondence and signed by or on behalf of the end user.

	<p><b>7 Miscellaneous</b></p> <p><i>The Bidder or any Joint Venture partner shall not be on the Blacklist circulated by Public procurement Monitoring Office, Government of Nepal, Nepal Electricity Authority and Chilime Hydropower Company Limited.</i></p>
ITB 4.5e	Additional Personnel requirement (if any): <i>Project Engineer with five years experience in similar works.</i>
ITB 4.5f	<i>The minimum essential equipment requirement shall be as mentioned in Section III, Qualification Information, Sub-Clause 1.4.</i>
	<i>The Bidder must meet the legal status, general work experience, average annual turnover requirement, qualification requirement of manufacturers and working capital requirement as stated above in 4.5 a to 4.5 f. Failure to comply with this requirement will result in rejection of the Bid.</i>
ITB 4.6	<p><i>Percentage to be met by each JV Partner of minimum criteria as per clause 4.5: 25%</i></p> <p><i>Percentage to be met by the Lead Partner in Charge of minimum criteria as per clause 4.5: 51%</i></p>
ITB 7.1	<p>Add the following after ITB 7.1:</p> <p><i>The Bidder shall be responsible to familiarize himself with all aspects, conditions and requirements of the Works, to interpret rules and regulations made by or on behalf of the Employer and all laws and regulation of government of Nepal that may in any manner affect or apply to the operations and activities of the Contractor under the Contract or in connection there with and no claim will be considered at any time for extension of time of completion or reimbursement of any expense incurred or both as a result of any misunderstanding in regard to the conditions imposed by the Contract or prevailing at the site or in Nepal. Information regarding work standards and regulations for employment of Contractor's personnel may be obtained from:          Ministry of Social Welfare and Labour, Government of Nepal          Department of Labor, Kathmandu</i></p>
ITB 8	<p>Add the following after ITB 8.1:</p> <p><i>8.2 The Employer is not responsible for the completeness of the Bidding Document and their Addenda, if they were not obtained directly from the source stated by the Employer in the Invitation for Bids.</i></p> <p><i>8.3 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the bid.</i></p>
ITB 9.1	<p>Employer's address for clarification purposes is:</p> <p><b>Rasuwadhi Hydropower Company Limited</b>  <b>Rasuwadhi Hydroelectric Project (111 MW)</b>  <b>IGC Das Tower, Lazimpat</b>  <b>Kathmandu</b>  <b>Tel.: +977-1-4002046, 4002044, Fax : +977-1-4002045</b></p>

	<p><b>Email :</b> <a href="mailto:rghpcl@gmail.com">rghpcl@gmail.com</a>  <a href="mailto:info@rghpcl.com.np">info@rghpcl.com.np</a></p> <p><i>The Employer will respond to any request for clarification, provided that such request shall be received no later than fourteen (14) days prior to the deadline for submission of bids.</i></p>
ITB 9.1	<p>Add after 9.1</p> <p>9.2 <i>The Bidder's designated representative is invited to attend a pre-bid meeting. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage.</i></p> <p>9.3 <i>The Bidder is, to submit any questions in writing, to reach the Employer</i></p> <p>9.4 <i>Questions raised on the pre-bid meeting (shall be in written form by the Bidder) together with any responses prepared after the meeting, will be transmitted promptly to all Bidders who have acquired the Bidding Document. Any modification to the Bidding Document that may become necessary as a result of the pre-bid meeting shall be made by the Employer exclusively through the issue of an addendum.</i></p> <p>9.5 <i>Non attendance at the pre-bid meeting will not be a cause for disqualification of a Bidder..</i></p> <p><i>Pre Bid meeting will be held in Date:      14:00 hrs on 19<sup>th</sup> December 2016      Rasuwagadhi Hydropower Company Limited      Rasuwagadhi Hydroelectric Project (111 MW)      IGC Das Tower, Lazimpat      Kathmandu      Tel.: +977-1-4002046, 4002044, Fax : +977-1-4002045</i></p>
ITB 12.1	<p>Additional documents required:</p> <p><i>a) The Bidder shall submit conceptual design, details, drawings and project implementation schedule with his Bid as specified in Technical Specifications.</i></p> <p><i>At the time of Award of the Contract the detailed Quality assurance Programme to be followed for the execution of the Contract will be mutually discussed and agreed to, and such agreed programme shall form part of the Contract.</i></p>
ITB 13.1	<p>Add the following after ITB 13.1:</p> <p><i>i) Bidders shall quote for the entire facilities on a "single responsibility" basis such that the total bid price covers all the Contractor's obligations mentioned in or to be reasonably inferred from the bidding documents in respect of the manufacture, including procurement and subcontracting (if any), delivery, construction, installation and completion of the facilities. This includes all requirements under the Contractor's responsibilities for testing, pre-</i></p>



	<p><i>commissioning and commissioning of the facilities and, where so required by the bidding documents, the acquisition of all permits, approvals and licenses, etc., operation, maintenance and training services and such other items and services as required and specified in the bidding documents, all in accordance with the requirements of the Conditions of Contract.</i></p> <p><i>ii) Bidders are required to quote the prices for the commercial, contractual and technical obligations outlined in the Bidding Documents.</i></p> <p><i>iii) Bidders shall give a breakdown of the prices in the manner and detail called for in the Bill of Quantities.</i></p> <p><i>iv) In the Price Schedules, Bidders shall give the required details and breakdown of their prices as follows:</i></p> <p><i>(a) Plant and equipment to be imported from outside the Employer’s country, including mandatory spare parts, shall be quoted on a CIF border basis in Price Schedule 1.( shall be exclusive of VAT and Custom Duties)        The cost of insurance, clearing, forwarding and transportation to site shall be quoted separately (in Price Schedule 1).</i></p> <p><i>(b) Plant and equipment manufactured or fabricated within the Employer’s country shall be quoted on an EXW (ex-factory, ex-works, ex-warehouse or off-the-shelf, as applicable) basis in Price Schedule 2 and shall be exclusive of VAT but inclusive of all costs as well as duties and taxes paid or payable on components and raw materials incorporated or to be incorporated in the facilities. VAT for plant supplied directly from manufacturing plant in Nepal shall be reimbursed by the Employer.</i></p> <p><i>(c) Construction and Installation Works shall be quoted separately in Price Schedule 3 and shall include rates or prices for all labor, contractor’s equipment, temporary works and civil construction materials.</i></p> <p><i>(d) Supply and delivery of spare parts shall be quoted in Price Schedule 1 and Price Schedule 2.</i></p> <p><i>(e) Supply and delivery of tools and equipment shall be quoted in Price Schedule 4.</i></p> <p><i>(f) Price Schedule 5 is grand summary of Schedules 1-4</i></p> <p><i>v) Locally available goods, construction materials including asphalt, fuel, lubrication oil, cement, timber, iron and steel goods etc. shall be procured locally. All taxes including royalties for such goods procured from the local market shall be included in the Contract Rates and Prices and no reimbursement or payment in that respect shall be made to the Contractor.</i></p>
ITB 13.2	<i>All rates and price for all items should be in Nepalese Currency (NRs).</i>
ITB 13.4	Delete ITB 13.4 and replace it with the following: <i>The rates and prices quoted by the Bidder shall not be subjected for adjustment.</i>
ITB 13.5	Not applicable
ITB 13.6	Not applicable
ITB 14.1	Delete ITB 14.1 and replace it with the following: <i>Price quoted in the Price Schedule should be entered in Nepalese Currency (NRs.)</i>
ITB 14.2	Delete ITB Sub-Clause 14.2
ITB 14.3	Not Applicable



ITB 14.4	Not Applicable
ITB 15.1	The period of bid validity shall be 120 days after the deadline for bid submission.
ITB 15.3	Not Applicable
ITB 16.1	The amount of Bid Security shall not be less than: <b>NPR 4,450,000/- (In Words Four Million Four Hundred fifty thousand Nepalese Rupees)</b>
ITB 16.2	Add The Bid Security amount shall be issued by the Class A Commercial Bank.
ITB 17.0	Alternative proposals to the requirements of the Bidding documents: <i>will not be permitted.</i>
ITB 18.2	The written confirmation of authorization to sign on behalf of the Bidder shall indicate: <i>(a) A written power of attorney authorizing the signatory of the bid to commit the bidder; and</i> <i>(b) In the case of Bids submitted by an existing or intended JV an undertaking signed by all parties (i) stating that all parties shall be jointly and severally liable, and (ii) nominating a Representative who shall have the authority to conduct all business for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.</i>
ITB 19.2	The Employer's address for the purpose of bid submission is:  <b><i>Rasuwadahi Hydropower Company Limited Rasuwadahi Hydroelectric Project (111 MW) IGC Das Tower, Lazimpat Kathmandu Tel.: +977-1-4002046, 4002044, Fax : +977-1-4002045</i></b>
ITB 20.1	The deadline for submission of Bids shall be: <b>12:00 hours on 5<sup>th</sup> January 2017</b>
ITB 23.1	The bid opening shall take place at: <b>14:00 hours on 5<sup>th</sup> January 2017 at</b>  <b><i>Rasuwadahi Hydropower Company Limited Rasuwadahi Hydroelectric Project (111 MW) IGC Das Tower, Lazimpat Kathmandu</i></b>
ITB 25.1	Change the first sentence of the clause no. 25.1 as <i>To assist in the examination, evaluation and comparison of Bids, the Employer may, at the Employer's discretion, ask any Bidder for clarification of the Bidder's bid, such as supporting document for technical and financial responsiveness of bid including breakdowns of unit rates.</i>
ITB 26.3	Add the following in Clause no. 26.3 :  <i>The Bid shall also be rejected :</i>  <i>a. If Bid Price are other than in Nepalese Currency</i> <i>b. If there are any conditions regarding Bid Price.</i> <i>c. If the original Bid document issued by the Employer is not submitted.</i> <i>d. If the Bid is not sealed.</i> <i>e. If the Bid is not signed and stamped by the Bidder. In case of Joint</i>

	<p>Venture, the bid must be signed by the person authorized by the power of attorney.</p> <p>f. If the Bid is received by the Employer after the deadline for submission of bids.</p> <p>g. In case of Joint Venture participation, if the original joint venture agreement is not submitted.</p> <p>h. In case of Joint Venture participation, if the original power of attorney is not submitted.</p> <p>i. Conditional Bid shall not be acceptable.</p> <p>j. If part of the specified scope of work is omitted (Partial bidding).</p> <p>k. If the bidder submits a Bid with Project Implementation schedule exceeding the specified time period requirement.</p> <p>l. If bidder is blacklisted in its past contractual obligation with the Employer.</p> <p>m. If bidder does not accept correction arithmetic error by employer.</p> <p>n. If bid is front loaded and does not provide satisfactory answer when asked.</p> <p>o. If the bidder does not provide the qualification information as per the qualification forms attached in Section: III.</p> <p>p. If the price of bid is not deposited in the Bank as stated in Bank Voucher.</p> <p>q. For the electronically submitted Bid, If the Bidder does not submit the original Hard copy in the said time.</p> <p>r. For the electronically submitted Bid, If there is substantial deviation between document submitted through e-bidding and document submitted during bid evaluation.</p> <p>s. For the electronically submitted Bid, if bid is unable to read in open standard interface.</p>
ITB 28.1	<p>Delete ITB Sub-Clause 28.1 and replace it with the following:  <i>Bid will be evaluated in Nepalese Currency.</i></p>
ITB 30.2 ITB 30.3	<p>Delete ITB sub-clause 30.2 and 30.3 and replace it with the following:  <i>If the price of goods manufactured in Nepal, are higher up to ten percent than that of foreign goods, a margin of preference up to ten percent to the goods manufactured in Nepal shall be provided in the evaluation of the Bids. A margin of preference shall be applied to domestically manufactured equipment in accordance with the following provisions:</i></p> <p>a) <i>The preference margin shall not be applied to the whole package but only to the domestically manufactured equipment within the package.</i></p> <p>b) <i>In the comparison of bids, each bid of the equipment offered from outside the Employer's country shall be increased by 10 per cent only in CIF price.</i></p> <p>c) <i>No preference shall be applied for any associated services or works included in the package.</i></p> <p>d) <i>Bidders shall not be permitted to modify the mix of local and foreign</i></p>

	<i>equipment, after bid opening.</i>
ITB 33.4	Not Applicable
ITB 34.1	<i>The Standard Form of Performance Security acceptable to the Employer shall be irrevocable unconditional Bank guarantee from a Commercial Class A bank using the form provided in Section IX. The Performance Security shall be valid until a date 30 days from the date of issue of the Defect Liability Certificate.</i>
ITB 35.1	The Advance Payment shall be limited to <i>ten percent (10%)</i> in pursuant to Clause 50 of the General Conditions of Contract.
ITB 37.1	Reference of Dispute to: <i>DRB</i>
ITB 37.2	The Adjudicator proposed by the Employer is: <i>Not Applicable</i> The hourly fee for this proposed Adjudicator shall be: <i>Not Applicable</i> The biographical data of the proposed Adjudicator is as follows: <i>Not Applicable</i>
ITB 40.1	f) Additional acts as ground for black listing: <i>None</i>

## Special Instruction to Bidders for e-Bidding

### A) Bid submission procedures through electronically (e-submission) only:

- i. Interested eligible bidders shall, either purchase the hard copy of the bidding document directly from the Employer's office as specified in the Invitation for Bid (IFB) or may download the necessary parts of the bidding documents from e-procurement section in RGHPCL's web site <http://www.rghpcl.com.np>. In case, the bidders choose to download the bidding documents, prepare his/her bids on downloaded documents, and submit his/her bids electronically, the Bidders shall be required to deposit the non refundable fee for the bidding document (as specified in the bid notice) in the bank account specified in the IFB. In addition, the electronic scanned copy (\*.pdf format) of the bank deposit voucher shall also be submitted along with the electronic bid files.
- ii. The Bidder shall fill the following documents and forms (in hard copy of issued bid documents), signed by the authorized representative with seal of the company, then scan the completed original documents and forms in the pdf formats with file name shown below. Pdf (Adobe Acrobat) version must be 4.0 or above.

S.No.	Document	PDF File name	Requirement	Remarks
1	Form of Bid	Bid form -1	Mandatory	
2	Bid Security (Bank Guarantee)	Bid security-2	Mandatory	
3	Company registration,	Company reg-3	Mandatory	All firms in case of JV
4	VAT/PAN registration,	VAT reg-4	Mandatory	All firms in case of JV
5	Tax clearances certificate,	Tax-5	Mandatory	All firms in case of JV
6	Power of Attorney of Bid signatory	Power of att-6	Mandatory	
7	Joint venture agreement	JV doc-7	Mandatory	
8	Qualification Information	Qualifications-8	Mandatory	Forms (Experience, Turnover etc)
9	BOQ with rate, amount and total amount	BOQ-9	Mandatory	
10	Manufacturers Authorization	Authorization -10	Not Mandatory	NA
11	Technical Data Sheet	TDS-11	Not Mandatory	NA
12	Certification Documents	Certifications-12	Not Mandatory	NA
13	Declaration Form	Declaration-13	Mandatory	
14	Bank Voucher for cost of bid document	Bank Voucher-14	Mandatory	

Note: **Mandatory** means the mentioned files shall be included in e-submission and non-submission of such file shall be considered as non-responsive bid. Declaration Letter for Eligibility of bidder (as

mentioned) shall be prepared and scanned and uploaded.

- iii. For e-submission purpose the Bidder shall, at first, register in the e-procurement section RGHPCL's web site <http://www.rghpcl.com.np>
- iv. After preparing all the required bidding documents in PDF, the bidder shall scan those documents and save as PDF file with name as specified in (ii).
- v. The Bidder shall upload the PDF bid files and submit the complete bid online through e-procurement section of RGHPCL's website <http://www.rghpcl.com.np> within the specified date and time.
- vi. The e-procurement system will accept the e-submission of bid from the date after publishing of notice and will automatically not allow the e-submission of bid after the deadline for submission of bid, as specified above.
- vii. The standard time for e-submission is Nepalese Standard Time as set out in the server of IT Department of RGHPCL.
- viii. When a bidder submits his bid in hard copy, the e-procurement section does not allow the bidder to submit his Substitution or Modification or Withdrawal through e-procurement section of RGHPCL's web site.
- ix. Bidders may submit his Substitution or Modification or Withdrawal either in hard copy or through e-submission.
- x. For Substitution of Bid, the Bidder shall follow similar steps as specified in ITB Clause -22 with a Substitution letter in PDF file.
- xi. For Modification or Withdrawal of bid, the Bidder is required to submit PDF scan copy of their Modification or Withdrawal letter and a written Power of Attorney of the signatory for Modification/ Withdrawal, duly signed by Authorized Representative/s of the Firm / all authorized Joint Venture partners.
- xii. When a Bidder submits electronic bid by downloading the bidding documents from the RGHPCL's webpage it is assumed that the Bidder prepares his bid by studying and examining all the Bidding documents including specifications and conditions of contract.
- xiii. In case the Bidder choose to download the bidding documents and deposit the cost of bidding documents (as specified in the bid notice), such deposited amount shall be verified by the office during bid evaluation process. The bid shall be considered as non-responsive and shall not be evaluated if the specified cost for bidding document is not deposited in the specified account for the said document.
- xiv. Proposed facility for submission of bid electronically through e-submission is to increase transparency, non-discrimination, equality of access, and open competition. The Bidders shall be fully responsible to use the e-submission facility in e-procurement section of RGHPCL's website <http://www.rghpcl.com.np> in specified procedures and in no case the Employer shall be held liable for Bidder's inability to use this facility.

**B) Requirements and Conditions for e-submission of bid:**

- ii. The Bidder shall submit his bid electronically in PDF files in the manner as specified above, and additional submission of hard copy of "original plus one copy of bid" is not mandatory.
- iii. In case, if both the electronic bid and original bid in hard copy are submitted to the Employer within the bid submission deadline, the Bidder's electronic bid and original bid in hard copy will be accepted for evaluation provided the facts and figures in hard copy confirm to the PDF files in electronic bid. If there is any discrepancy in fact and figures between the electronic bid and original bid in hard copy, it will be treated as two separate bids from one Bidder and hence, both the electronic bid and original bid in hard copy shall be disqualified.
- iv. However, for electronically submitted bid in PDF files, the Bidder shall be required to submit documents/clarifications for verification purpose upon notification to do so from the Employer within 7 days. Non-submission of such documents and or clarifications by the bidder within specified time may cause forfeit of Bid Security.
- v. The e-submitted bids must be readable through open standards interfaces. Unreadable and or partially submitted bid files (not complying with the ITB Clauses) shall be considered incomplete and rejected for further bid evaluation.
- vi. In case of major discrepancy found between electronically submitted PDF bid files and documents/ clarifications provided by the Bidder, the bid shall not be considered for further evaluation.
- vii. The Bidder shall attach the Bid Security Guarantee in the format attached in the Bid Document. The Bid Security may be forfeited
  - a. If the Bidder does not respond to and/or submit the documents and or clarifications when requested by the Employer.
  - b. If major discrepancy is found between e-submitted bid information and documents/clarifications provided by the Bidder during verification process as requested by the Employer.

**C) Bid Opening process for e-submitted bid**

- i. Electronically submitted bid shall be opened first at the Bid opening time.
- ii. The e-procurement system allows the Employer to download and open the e-submitted bid files from the bidders only after the time for opening the bids.
- iii. The e-submitted bids must be readable through open standards interfaces. Unreadable and or partially submitted bid files (not complying with the ITB Clauses) shall be considered incomplete and rejected for further bid evaluation.
- iv. After opening of e-submitted bids files, all files shall be printed and recorded at the time of bid opening.
- e) In case of "WITDRAWAL" or "MODIFICATION" or "SUBSTITUTION" by the Bidder through e-submission, the e-submitted PDF files under "WITDRAWAL" or "MODIFICATION" or "SUBSTITUTION" shall be opened and read out first. Bids for which acceptable notice of "WITDRAWAL" or "SUBSTITUTION" has been submitted pursuant to ITB Clause shall not be

opened.

**D) Bid Evaluation and Comparison process for e-submitted bid**

- i. In case of e-submitted bids, the Employer evaluates the bid based on the information as per electronically submitted bid files. For clarification/ verification purpose, the Employer may request the Bidder to submit documents/ clarifications.
- ii. In case, the Bidder could not substantiate or provide evidence to prove the information provided in e-submitted bid through documents/clarifications, the bid shall not be considered for further evaluation and respective ITB Clause for forfeiture of bid security shall be applicable.
- iii. The e-submitted bids must be readable through open standards interfaces. Unreadable and or partially submitted bid files (not complying with the ITB Clauses) shall be considered incomplete and rejected for further bid evaluation.

**E) Qualification Information**

In case of e-Bidding, the Bidder is required to submit the documents to prove minimum qualification requirements only and not the detail documents.

**F) Bid Security Format**

Form of Bid security shall include the provision as ‘This Bank Guarantee shall not be withdrawn or released merely upon return of the original Guarantee by the Bidder unless notified by the Employer for the release of the Guarantee’.

VOLUME I

SECTION III

BIDDING FORMS





## Section III

### Sample Forms of Bid, Qualification Information, Letter of Intention to Award, Letter of Acceptance and Agreement

#### Sample Form of Bid Letter of Bid

The Bidder must accomplish the Letter of Bid in its letterhead clearly showing the Bidder's complete name and address.

Date: .....

Name of the contract: .....

Invitation for Bid No.: .....

To: .....

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB) Clause 10;

(b) We offer to execute in conformity with the Bidding Documents the following Works:

.....

(c) The total price of our Bid, excluding any discounts offered in item (d) below is:

.....

The above amounts are in accordance with the Price Schedules attached herewith and are made part of this.

(d) The discounts offered and the methodology for their application are:

(e) Our bid shall be valid for a period of . . . **insert validity period as specified in ITB 15.1** . . . days from the date fixed for the bid submission deadline in accordance with the Bidding Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

- (f) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Document;
- (g) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from **[insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier];**
- (h) We, including any subcontractors or suppliers for any part of the contract, do not have any conflict of interest in accordance with ITB 3.2;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 5.1, other than alternative offers submitted in accordance with ITB 17;
- (j) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the contract, has not been declared ineligible, under the Employer's country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council;
- (k) We are not a government owned entity / We are a government owned entity but meet the requirements of ITB 3.3;<sup>1</sup>
- (l) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed;
- (m) We declare that, we have no conflict of interest in the proposed procurement proceedings and we have not been punished for an offense relating to the concerned profession or business.
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive; and
- (o) If awarded the contract, the person named below shall act as Contractor's Representative:  
  
\_\_\_\_\_
- (p) We agree to permit **the Employer** or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by **the Employer**.

Name .....

In the capacity of .....

Signed .....

Duly authorized to sign the Bid for and on behalf of .....

Date .....

<sup>1</sup> Use one of the two options as appropriate.



## Qualification Information

### 1. Individual Bidders or Individual Members of Joint Ventures

#### 1.1 Constitution or legal status of Bidder: *[attach copy]*

All Bidders shall submit following documents as pre- requisites for eligibility:

- a) Registration Certificate *[ attach copy]*
- b) Place of Registration *[ insert ]*
- c) Principal place of Business *[insert address]*
- d) Business Registration License *[attach copy]*
- e) VAT and PAN Registration Certificates *[attach copy]*
- f) Tax Clearance Certificate or Submissions of Tax Returns as specified in Bidding Data *[attach copies]*
- g) A written declaration made by the Bidder stating that the Bidder is not ineligible to participate in the Bid; has no conflict of interest in the proposed bid procurement proceedings and has not been punished for the profession or businesses related offence.
- h) Joint Venture Authorization/ Agreement (if any)
- i) Power of Attorney

1.2 Total annual volume of supply and construction works performed in last five years, in US Dollar or Nepalese Rupees. Complete the Qualification Form furnished, and attach the copies of relevant documents.

1.3 Work performed as prime Contractor or member of a joint venture on works of a similar nature and volume over the last five years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date. Complete the Qualification Form furnished and attached the copies of relevant documents.

1.4 Major items of Contractor's Equipment proposed for carrying out the Works. The equipment shown in the table shall be required at the minimum. List all information requested below. Refer also to Sub-Clause 4.3(d) of the Instructions to Bidders. If the equipments are to be leased/hired, submit papers making specific arrangement for leasing/hiring.

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
<i>Tensioning stringing equipment (≥ 5 ton capacity) 2 nos.</i>			
<i>Drum stand 2 nos.</i>			
<i>Roller (≥ 2 feet diameter) 60</i>			

<i>nos.</i>			
<i>Ground roller 60 nos.</i>			
<i>Dynamometer 2 nos.</i>			
<i>Clamps for "Bear" Conductor 10 nos.</i>			
<i>5 kV Megger</i>			
<i>Clamps for OPGW 10 nos</i>			
<i>Primary injection kit (≥ 800 Amp)</i>			
<i>Secondary injection kit (≤ 5 Amp)</i>			
<i>Soil resistivity testing Meter</i>			
<i>Multimeters</i>			
<i>Concrete mixer</i>			

- 1.5 Qualifications and experience of key personnel proposed for site management, administration and execution of the Contract. Attach bio-data and detailed curriculum vitae. Refer also to Sub-Clause 4.3(e) and 4.5(e) of the Instructions to Bidders and Sub-Clause 9.1 of the General Conditions of Contract.

Position	Name	Years of experience (general)	Years of experience in proposed position
1.			
2.			

- 1.6 Proposed subcontracts and firms involved. Refer to Clause 7 of General Conditions of Contract.

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
1.			
2.			

- 1.7 Financial reports for the last three years: balance sheets, Income statements, cash flow statements, auditors' reports, etc. Complete the Qualification Form furnished and attached copies of reports.
- 1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. List below and attach copies of support documents.

Source of financing	Amount in US\$/NRs.
1.	
2.	
3.	

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

Name	Address	Telephone/fax number	E-mail address
1.			
2.			

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

Other party(ies)	Cause of dispute	Amount involved
1.		
2.		

1.11 Statement of compliance with the requirements of Sub-Clause 3.1 and 3.2 of the Instructions to Bidders.

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

## 2. Joint Ventures

2.1 The information listed in 1.1 - 1.11 above shall be provided for each partner of the joint venture.

2.2 The information in 1.12 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory (ies) of the bid authorizing signature of the bid on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that

- (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
- (b) one of the partners will be nominated as being in charge for the JV company authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the JV company.
- (d) Joint Venture office shall be registered according to GoN rule and get VAT registration certificate within 45 days after contract signing.

## 3. Additional Requirements

- 3.1 Bidders should provide any additional information required in the Bidding Data or to fulfill the requirements of Sub-Clause 4.1 and Clause 30 of the Instructions to Bidders, if applicable.
- 3.2 Complete the attached Qualification Forms.

## Letter of Intention to Award

Date:

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

This is to notify you in accordance with the Instruction to Bidders that it is our intention to award

the contract *[name of the Contract and identification number, as given in the Contract Data and/or SCC]* to you as your Bid price of the equivalent, of *[amount in numbers and words in Nepalese Rupees]*, as corrected and modified in accordance with the Instructions to Bidders, is determined to be substantially responsive and lowest evaluated Bid price.

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

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

Name of Agency: \_\_\_\_\_

## Letter of Acceptance

Date:

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

This is to notify you that your Bid dated *[date]* for execution of the *[name of the Contract and Identification number, as given in the Contract Data and/or SCC]* for the Contract Price of *[amount in numbers and words in Nepalese Rupees]*, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are hereby instructed to proceed with the execution of the said Works in accordance with the  
the  
Contract documents.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Agreement



## Agreement

This Agreement, made the *[day]* day of *[month]*, *[year]* between *Rasuwagadhi Hydropower Company Limited*, (hereinafter called “the Employer”) and *[name and address of Contractor]* (hereinafter called “the Contractor”).

Whereas the Employer is desirous that the Contractor execute *Supply and Construction of 132 kV Transmission Line*; Tender No.: *RGHPCL/RGHEP/073/74/TL-01* on turnkey basis covering design, manufacture, test, deliver, install, complete and commission (hereinafter called “the Works”) and the Employer has accepted the bid for \_\_\_\_\_ *[insert the amount in currencies of the bid in numbers and words]* by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

Now this Agreement witnesses as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the General Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.
  - i. Agreement
  - ii. The Letter of Acceptance
  - iii. Minutes of Negotiation meeting and addenda, if any
  - iv. The Special Conditions of Contract
  - v. The General Conditions of Contract
  - vi. The Specification

- vii. The Drawings
  - viii. The Bill of Quantities and
  - ix. The Contractor's Bid
  - x. Any other document listed in the SCC as forming part of the Contract
3. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and
- Complete the Works and remedy any defects therein in conformity in all respects with the
- Provisions of the Contract.
4. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

The Common Seal of:

Was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the said  
in the presence of:

Binding Signature of Employer:

Binding Signature of Contractor:

### QUALIFICATION FORMS (QF)

QF1-	General Information
QF2-	Experience in Contracts of Similar Works
QF3-	Summary of Current Contract Commitments/Works in Progress
QF4-	Financial Data
QF5-	Annual Turnover Data
QF6-	Manufacturing Experience
QF7-	Manufacturer's Authorization Certificate
QF8-	Declaration of Firm Price
QF9-	Project Implementation Schedule

Note:

1. These forms shall be filled up and furnished by the Bidder and its Joint Venture partner(s), if any.
2. If necessary, additional sheets may be added to the forms. Each page of each form should be clearly marked in the right top corner as follows: Form QF1, page 1; Form QF1, page 2, etc.
3. Some forms will require attachments. Such attachments should be clearly marked as follows: Attachment 1 to Form QF1, Attachment 2 to Form QF1, etc.

### QF-1. GENERAL INFORMATION

Bidder and its Joint Venture Partner(s) and/or Subcontractors are requested to complete the information in this form. Nationality information of Bidders should also be provided.

1.	Name of Bidder	
2.	Head office address	
3.	Local office address (if any)	
4.	Telephone	Contact
5.	Facsimile	e-mail
6.	Place of incorporation / registration	Year of incorporation / registration
7.	Main lines of business	
	1.	Since:
	2.	Since:
	3.	Since:
	4.	Since:

Note:

Copies of following credentials shall be attached:

- a) Copy of incorporation/registration certificate
- b) Organization chart





Note:

- a) Attach end user's certificates evidencing successful completion of project.

Signature and Seal of Bidder:

### QF-4. FINANCIAL DATA

Name of Bidder/Joint Venture Partner:
---------------------------------------

Bidder and its Joint Venture partner(s) should provide financial information to demonstrate that they meet the requirements of the bidding document. Each Bidder and its joint venture partner(s) must fill in this form. If necessary, use separate sheets to provide complete banker information. A copy each of the audited balance sheet for the following last three years should be attached.

Banker	Name of banker	
	Address of banker	
	Telephone	Contact name and title
	Facsimile	Email

Summarize actual assets and liabilities in Nepalese currency equivalent (at the rates of exchange current at the end of each year) for the following last three fiscal years.

Financial information in NPR equivalent	Last three fiscal years		
	2069/2070	2070/2071	2071/2072
1. Total assets			
2. Current assets			
3. Total liabilities			
4. Current liabilities			
5. Net Working Capital			
6. Average Annual Turnover			
7. Profits before taxes			
8. Profits after taxes			

Specify proposed sources of credit line to meet the cash flow demands of the Project.



Source of credit line	Amount (NPR equivalent)
1.	
2.	

Attach audited financial statements for the above three years (for the Bidder and its joint venture partner(s)) certified by a registered accountant.

Attach original Bank References for Bidder and JV Partner(s).

Signature and Seal of Bidder:

### QF-5. ANNUAL TURNOVER DATA

Name of Bidder/ Joint Venture Partner:

Bidder and its Joint Venture partner(s) are requested to complete the information in this form separately. The information supplied should be the annual turnover of the Bidder, in terms of the amounts billed to clients for each year for work in progress or completed. In case of a joint venture, a copy of the Joint Venture Agreement must be attached.

Use a separate sheet for Bidder and its Joint Venture partner(s).

Annual turnover data for the following last three fiscal years		
Year	Turnover	NPR equivalent
2029/070		
2070/071		
2071/072		

Signature and Seal of Bidder:

## QF-6. MANUFACTURING EXPERIENCE

1. Name of the Plant and Equipment:
2. Production capacity (average annual):
3. First year of manufacturing:
4. Quantity produced [Sets/Numbers/ Km]:
  - i) 2010/11:
  - ii) 2011/12:
  - iii) 2012/13:
  - iv) 2013/14
  - v) 2014/15:
5. Manufactured under own development? Yes No
6. Manufactured under license from:
7. Manufactured in collaboration with:
8. Has the Bidder R&D Section? Yes No
9. Has manufacturer a Quality Assurance Plan (QAP) in place? Yes No
10. Is the manufacturer certified or accredited by an organization? Yes No
11. Name the organization and type of certification/accreditation:

**Note:**

Copy of following document shall be attached:

- a) Copy of Quality Assurance Plan (ISO 9001) for each manufacturer.
- b) The above details shall be produced for towers, ACSR conductor, optical ground wire, insulators, conductor and OPGW hardware and accessories.

Signature and Seal of Bidder:

## QF-7. MANUFACTURER'S AUTHORIZATION CERTIFICATE

The Bidder shall furnish authorization certificates in the following format for specified equipment.

To: Rasuwagadhi Hydropower Company Limited  
Rasuwagadhi Hydroelectric Project (111 MW)  
IGC Das Tower, Lazimpat, Kathmandu  
Nepal  
Tel: +977-1-4002044/4002046  
Fax: +977-1-4002045  
Email: [rghpcl@gmail.com](mailto:rghpcl@gmail.com)  
[info@rghpcl.com.np](mailto:info@rghpcl.com.np)

WHEREAS ----- (name of the manufacturer) who are established and reputable manufacturers of ----- (name and/or description of the goods) having factories at ----- (address of factory) do hereby authorize ----- (name and address of Bidder) to submit a Bid and subsequently negotiate and sign the Contract with you against Invitation for Bid (IFB) No. RGHPCL/RGHEP/073/74/TL-01 for Design, Supply, Construction, Testing and Commissioning of 132 kV D/C Transmission Line from Rasuwagadhi Hydroelectric Project to Chilime Hub, Rasuwa for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Bids. We further extend our full commitment to provide after sales service.

---

(Signature and Seal for and on behalf of Manufacturer)

Note: The original Manufacturer's Authorization Certificate shall be submitted in the bid.

Signature and Seal of Bidder:

## QF-8.DECLARATION OF FIRM PRICE

The Bidder hereby declares that the prices quoted in the Price Schedules are firm i.e. price Escalation is not applicable through the period of Bid validity / contract and any extension thereof as per the requirement of the bidding document.

Signature of Bidder : \_\_\_\_\_

## QF-9. PROJECT IMPLEMENTAION SCHEDULE

Signature of Bidder: \_\_\_\_\_

VOLUME I

SECTION IV

GENERAL CONDITIONS OF  
CONTRACT





## Section IV

### General Conditions of Contract (GCC)

#### A. General

##### 1. Definitions

1.1 Boldface type is used to identify defined terms.

The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Clauses 24 and 25 hereunder.

**Bill of Quantities** means the priced and completed Bill of Quantities forming part of the bid.

**Compensation Events** are those defined in Clause 43 hereunder.

The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with Sub-Clause 54.1.

The **Contract** is the Contract between the Employer and the Contractor to execute, complete, and maintain the Works. It consists of the documents listed in Clause 2.3 below.

The **Contractor** is a person or corporate body whose bid to carry out the Works has been accepted by the Employer.

The **Contractor's bid** is the completed Bidding documents submitted by the Contractor to the Employer.

The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.

**Days** are calendar days; months are calendar months.

**Day works** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.

A **Defect** is any part of the Works not completed in accordance with the Contract.

The **Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.

The **Defects Liability Period** is the period named in the SCC and calculated from the Completion Date.

**Drawings** include calculations and other information provided or approved by the Project Manager for the execution of the Contract.

The **Employer** is the party who employs the Contractor to carry out the Works.

**Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.

The **Initial Contract Price** is the Contract Price listed Employer's Letter of Acceptance.

The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the SCC. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.

**Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.

**Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.

The **Project Manager** is the person named in the SCC (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract.

The **Site** is the area defined as such in the SCC.

**Site Investigation Reports** are those that were included in the Bidding documents and are factual and interpretative reports about the surface and subsurface conditions at the Site. These reports also include those reports which are prepared for construction material sources.

**Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.

The **Start Date** is given in the SCC. It is the latest date when the Contractor shall commence execution of the Works.

A **Subcontractor** is a person or corporate body who has a contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.

**Temporary Works** are works designed, constructed, installed and removed by the Contractor that are needed for construction or installation of the Works.

A **Variation** is an instruction given by the Project Manager which varies the Works.

The **Works** are what the Contract requires the Contractor to construct, install and turn over to the Employer, as defined in the SCC.

The word "**Tender**" is synonymous with the word "**Bid**", the word "**Tenderer**" with "**Bidder**", the word "**Tendering**" with "**Bidding**" and the words "**Tender Documents**" with "**Bidding Documents**".

## 2. Interpretation

2.1 In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2.2 If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).

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

- (1) Agreement,
- (2) Letter of Acceptance,
- (3) Contractor's bid,
- (4) Special Conditions of Contract,
- (5) General Conditions of Contract,
- (6) Specifications,
- (7) Drawings,
- (8) Bill of Quantities, and
- (9) Any other document listed in the SCC as forming part of the Contract

## 3. Language and Law

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

## 4. Project Manager's Decisions

4.1 Except where otherwise specifically stated, the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer fairly and impartially.

## 5. Delegation

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

## **6. Communications**

- 6.1 Communications between parties that are referred to in the Conditions of Contract shall be effective only when in writing. A notice shall be effective only when it is delivered.
- 6.2 If a notice given pursuant to Sub Clause 6.1 fails to be delivered due to failure to trace the address of the party then the notice shall be published as public notice in a National daily newspaper and when the notice is so published then the notice shall be considered to be delivered to the concerned party.

## **7. Subcontracting**

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

## **8. Other Contractors**

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

## **9. Personnel**

- 9.1 The Contractor shall employ either the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Employer on the Project Manager's recommendation will approve any proposed replacement of key personnel only if their qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.
- 9.2 If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating the reasons, the Contractor shall ensure that the person leaves the Site within 7 days and has no further connection with the work in the Contract.
- 9.3 A child who has not attained the age of fourteen years shall not be employed in any work as a labourer.
- 9.4 During continuance of the Contract, the Contractor and his subcontractors shall abide at all times by all labour laws, including child labour related enactments, and rules made there under.

## **10. Employer's and Contractor's Risks**

- 10.1 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.

## **11. Employer's Risks**

- 11.1 From the Start Date until the Defects Liability Certificate has been issued, the following are Employer's risks:

- (a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment) which are due to
  - i. use or occupation of the Site by the Employer 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.
- (b) 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.

- 11.2 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

- a. Defect which existed on the Completion Date;
- b. an event occurring before the Completion Date, which was not itself an Employer's risk; or
- c. the activities of the Contractor on the Site after the Completion Date.

## **12. Contractor's Risks**

- 12.1 From the Starting Date until the Defects 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.

## **13. Insurance**

- 13.1 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, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:

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

- 13.2 Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such

insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

- 13.3 If the Contractor does not provide any of the policies and certificates required, the 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.
- 13.4 Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 13.5 Both parties shall comply with any conditions of the insurance policies.

**14. Site Investigation Reports**

- 14.1 The Contractor, in preparing the bid, may refer to any Site Investigation Reports stated in the SCC. In accordance with the Instructions to Bidders, Bidders must make their own arrangements to verify the availability and suitability of construction materials when preparing their Bids.

**15. Queries about the SCC**

- 15.1 The Project Manager will clarify queries on the SCC.

**16. Contractor to Construct the Works**

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

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

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

**18. Approval by the Project Manager**

- 18.1 The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Project Manager, who is to approve them if they comply with the Specifications and Drawings.
- 18.2 The Contractor shall be responsible for design of the Temporary Works.
- 18.3 The Project Manager's approval shall not alter the Contractor's responsibility for design of the Temporary Works.
- 18.4 The Contractor shall obtain approval of third parties to the design of the Temporary Works, where required.

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

**19. Safety**

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

**20. Discoveries**

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

**21. Possession of the Site**

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

**22. Access to the Site**

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

**23. Instructions**

23.1 The Contractor shall carry out all instructions of the Project Manager which comply with the laws of Nepal.

23.2 The Contractor shall permit the Donor Agency to inspect the Contractor's accounts and records relating to the performance of the Contractor and to have them audited by the auditors appointed by the Donor Agency, if so required by the Donor Agency.

**24. Appointment of the Adjudicator/DRB members**

24.1 The Adjudicator shall be appointed jointly by the Employer and the Contractor, at the time of the Employer's issuance of the Letter of Acceptance or within 30 days of the Start date of the contract. If, in the Letter of Acceptance, the Employer does not agree on the appointment of the Adjudicator or the parties cannot reach an agreement on the appointment of the Adjudicator, the Employer will request the Appointing Authority designated in the SCC, to appoint the Adjudicator within 15 days of receipt of such request.





- 26.1 Within the time stated in the SCC, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 26.2 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.
- 26.3 The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the SCC from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 26.4 The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

## **27. Extension of the Intended Completion Date**

- 27.1 The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 27.2 The contractor shall submit an application with supporting documents events to the Employer for extension of time, stating the causes for delay, 7 days before the expiry of the Contract completion date.
- 27.3 The Project Manager shall decide whether and by how much to extend the Intended Completion Date as soon as possible of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

## **28. Acceleration**

- 28.1 When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.
- 28.2 If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

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

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

**30. Management Meetings**

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

30.2 The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

**31. Early Warning**

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

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

**C. Quality Control**

**32. Identifying Defects**

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

**33. Tests**

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

#### **34. Correction of Defects**

- 34.1 The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.
- 34.2 Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.

#### **35. Uncorrected Defects after Completion Date**

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

### **C. Cost Control**

#### **36. Bill of Quantities**

- 36.1 The Bill of Quantities shall contain items for the supply, construction, installation, testing and commissioning work to be done by the Contractor.
- 36.2 The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.

#### **37. Changes in the Quantities**

- 37.1 If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent, provided the change exceeds 10 percent of the Initial Contract Price, the Project Manager shall adjust the rate to allow for the change.
- 37.2 The Project Manager shall not adjust rates from changes in quantities if thereby the Initial Contract Price is exceeded by more than 10 percent, except with the prior approval of the Employer.
- 37.3 If requested by the Project Manager, the Contractor shall provide the Project Manager with a detailed cost breakdown of any rate in the Bill of Quantities.

#### **38. Variations**

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

#### **39. Payments for Variations**

- 39.1 The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven days of the request or

within any longer period stated by the Project Manager and before the Variation is ordered by him.

- 39.2 If the work in the Variation corresponds with an item description in the Bill of Quantities and if, in the opinion of the Project Manager, the quantity of work above the limit stated in Sub-Clause 37.1 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate the value of the Variation. If the cost per unit of quantity changes, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work.
- 39.3 If the Contractor's quotation is unreasonable, the Project Manager may order the Variation and make a change to the Contract Price, which shall be based on the Project Manager's own forecast of the effects of the Variation on the Contractor's costs.
- 39.4 If the Project Manager decides that the urgency of varying the work would prevent a quotation being given and considered without delaying the work, no quotation shall be given and the Variation shall be treated as a Compensation Event.
- 39.5 The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning.

#### **40. Cash Flow Forecasts**

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

#### **41. Payment Certificates**

- 41.1 The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 41.2 The Project Manager shall check the Contractor's monthly statement (bill) and certify the amount to be paid to the Contractor.
- 41.3 The value of work executed shall be determined by the Project Manager.
- 41.4 The value of work executed shall comprise the value of the quantities of the items in the Bill of Quantities completed.
- 41.5 The value of work executed shall include the valuation of Variations and Compensation Events.

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

## **42. Payments**

42.1 Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of each 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 prevailing rate of interest for commercial borrowing for each of the currencies in which payments are made.

42.2 If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon the delayed payment as set out in this clause. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

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

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

## **43. Compensation Events**

43.1 The following shall be Compensation Events:

- a. The Employer does not give access to a part of the Site by the Site Possession Date stated in the SCC.
- b. The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- c. The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- d. The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- e. The Project Manager unreasonably does not approve a subcontract to be let.
- f. Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to Bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- g. The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- h. Other contractors, public authorities, utilities, or the Employer do not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.

- i. The advance payment is delayed.
- j. The effects on the Contractor of any of the Employer's Risks.
- k. The Project Manager unreasonably delays issuing a Certificate of Completion.

43.2 If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall estimate and decide on the basis of facts of the events and supporting documents whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

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

43.4 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 Project Manager.

#### **44. Tax**

44.1 The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 30 days before the submission of Bids for the Contract and the date of the last Certificate of Completion. The adjustment shall be the change in the amount of tax payable by the Contractor, provided such changes are not already reflected in the Contract Price or are a result of Clause 46.

#### **45. Currencies**

45.1 Where payments are made in currencies other than Nepalese Rupees, the exchange rates used for calculating the amounts to be paid shall be the exchange rates stated in the Contractor's bid.

#### **46. Price Adjustment**

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

$$P_c = A_c + B_c * \frac{I_{mc}}{I_{oc}}$$

Where:

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

Ac and Bc are coefficients specified in the SCC, representing the nonadjustable and adjustable portions, respectively, of the Contract Price payable in that specific currency “c”; and  $I_{mc}$  is the index prevailing at the end of the month being invoiced and  $I_{oc}$  is the index prevailing 30 days before bid opening for inputs payable; both in the specific currency “c”.

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

46.3 If, price adjustment provision is not applicable pursuant to Sub-clause 46.1 then the Contract is subject to price adjustment only for construction material in accordance with this clause. If the Contract Agreement is concluded following the Invitation for National Level Bidding and after the signing of the Contract Agreement, if the price of the construction materials stated in the SCC increase or decrease in an unexpected manner in excess of ten (10%) percent in comparison to the base price stated in the SCC, then the price adjustment for the increase or decrease of price of the construction material beyond 10% shall be made by applying the following formulas:

For unexpected increase in price

$$P = [R1 - (R0 * 1.1)] * Q$$

For unexpected decrease in price

$$P = [R1 - (R0 * 0.90)] * Q$$

Where:

“P” is price adjustment amount

“R1” is the present price of the construction material

“R0” is the base price of the construction material

“Q” is quantity of the construction material consumed in construction during the period of price adjustment consideration

46.4 The Price Adjustment amount shall be limited to a maximum of 25% of the initial Contract Amount unless otherwise is specified in the SCC.

46.5 The Price Adjustment provision shall not be applicable if the contract is not completed in time due to the delay caused by the contractor or the contract is a Lump sum Contract or a Fixed Budget Contract.

#### 47. Retention

47.1 The Employer shall retain from each payment due to the Contractor the proportion stated in the SCC until Completion of the whole of the Works.

47.2 One half of the retention shall be repaid by the Employer to the contractor within 15 days upon expiry of Defects Liability Period and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor before the end of this period have been corrected.

47.3 The remainder of the retention shall be paid by the Employer to the contractor within 15 days after submission of an evidence document issued by the concerned Internal Revenue Office that the contractor has submitted his Income Returns.

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

#### **48. Liquidated Damages**

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

48.2 If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate. The Contractor shall be paid interest on the overpayment of liquidated damage by the contractor, calculated from the date of payment to the date of repayment, at the rates specified in Sub-Clause 42.1.

#### **49. Bonus**

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

#### **50. Advance Payment**

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

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

50.3 The advance payment shall be repaid by deducting proportionate amounts, as stated in the SCC, from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of



the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses or Liquidated Damages.

## **51. Securities**

51.1 The Performance Security shall be provided to the Employer no later than the date specified in the Letter of Acceptance and shall be issued in an amount, specified in the SCC, and 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. The Performance Security shall be valid until a date 30 days from the date of issue of the Defects Liability Certificate in the case of a bank guarantee.

## **52. Day works**

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

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

52.3 The Contractor shall be paid for Day works subject to obtaining signed Day works forms.

52.4 The hiring charge for equipment other than those specified in the Bill of Quantities shall be based on the standard method of calculation.

## **53. Cost of Repairs**

54.1 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 Period 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**

### **54. Completion**

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

### **55. Taking Over**

55.1 The Employer shall take over the Site and the Works within seven days of the Project Manager's issuing a Certificate of Completion.

## **56. Final Account**

56.1 The Contractor shall supply the Project Manager with a detailed account of the total amount that the Contractor considers payable under the Contract before the end of the Defects Liability Period. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 60 days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 60 days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

## **57. Operating and Maintenance Manuals**

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

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

## **58. Termination**

58.1 The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.

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

- a. The Contractor stops work for 30 days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager.
- b. The Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 30 days.
- c. The Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation.
- d. A payment certified by the Project Manager is not paid by the Employer to the Contractor within 90 days of the date of the Project Manager's certificate.
- e. The Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager.
- f. The Contractor does not maintain a Security, which is required.
- g. The Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the SCC.
- h. If the Contractor, in the judgment of the Employer, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract. For the purpose of this paragraph:

“corrupt practice” means the offering, giving, receiving or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish Bid Prices at artificial noncompetitive levels and to deprive the Employer of the benefits of free and open competition. “Coercive practice”.

- i. The Contractor does not comply with sub-clauses 9.3 and 9.4 of the General Conditions of Contract.

58.3 When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under Sub-Clause 58.2 above, the Project Manager shall decide whether the breach is fundamental or not.

58.4 Notwithstanding the above, the Employer may terminate the Contract for convenience.

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

## **59. Payment upon Termination**

59.1 If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in the stated in the SCC. 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.

59.2 If the Contract is terminated for the Employer’s convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor’s personnel employed solely on the Works, and the Contractor’s costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.

## **60. Property**

61.1 All Materials on the Site, Plant, Equipment, Temporary Works and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor’s default.

## **61. Release from Performance**

62.1 If the Contract is frustrated by the outbreak of war or by any other event entirely outside the control of either the Employer or the Contractor, the Project Manager shall certify that the Contract has been frustrated. The Contractor shall make the Site safe

and stop work as quickly as possible after receiving this certificate and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

## **62. Suspension of Donor Agency Loan/Credit/ Grant**

- 62.1 In the event that the Donor Agency suspends the loan/ credit/grant to the Employer from which part of the payments to the Contractor are being made:
- a. The Employer is obligated to notify the Contractor of such suspension within 7 days of having received the Donor Agency's suspension notice; and
  - b. If the Contractor has not received sums due him within the 30 days for payment provided for in Sub-Clause 42.1, the Contractor may immediately issue a 15-day termination notice.

## **F. Additional Clauses**

### **63. Project Manager's Duties and Authority**

- 63.1 The Project Manager's duty and authority are restricted to the extent as stated in the SCC.

### **64. Quarries and Spoil Dumps**

- 64.1 Any quarry operated as part of this Contract shall be maintained and left in a stable condition without steep slopes and be either refilled or drained and be landscaped by appropriate planting. Rock or gravel taken from a river shall be removed over some distance so as to limit the depth of material removed at any one location, not disrupt the river flow or damage or undermine the river banks. The Contractor shall not deposit excavated material on land in Government or private ownership except as directed by the Project Manager in writing or by permission in writing of the authority responsible for such land in Government ownership, or of the owner or responsible representative of the owner of such land in private ownership, and only then in those places and under such conditions as the authority, owner or responsible representative may prescribe.

### **65. Safety, Security and Protection of the Environment**

- 65.1 The Contractor shall, throughout the execution and completion of the works and the remedying of any defects therein:
- a. Have full regard for the safety of all persons entitled to be upon the site and keep the site (so as the same is under his control) and the works (so far as the same are not completed or occupied by the Employer) in an orderly state appropriate to the avoidance of danger to such persons.
  - b. Provide and maintain at his own cost all lights, guards, fencing, warning signs and watching, when necessary or required by the Project Manager or by any duly constituted authority, for the protection of the Works of for the safety and convenience of the public or others.

- c. Take all reasonable steps to protect the environment on and off the site and to avoid damage or nuisance to persons or to property of the public or others resulting from pollution, noise or other causes arising as a consequence of his methods of operation.
- d. Ensure that any cut or fill slopes are planted in grass or other plant cover as soon as possible to protect them from erosion. This planting shall follow the recommendations given in manuals and handbooks such as “Vegetation structures for stabilizing highway slopes – A manual for Nepal”, department of Roads.
- e. Any spoil or material removed from drains shall be disposed off to designated stable tipping areas as directed by the Project Manager.
- f. Shall not use fuel wood as a means of heating during the processing or preparation of any materials forming part of the works.
- g. The Project Manager shall have the power to disallow any working practice or activity of the Contractor or direct that such practices or activities be modified should the Project Manager consider, on the advice of the relevant Government Departments, that the practices or activities will be harmful to wildlife.
- h. Provide on the Site such life saving apparatus as may be appropriate and an adequate and easily accessible first aid outfit or such outfits as may be required by any government ordinance, factory act, etc., subsequently published and amended from time to time.

#### **66. Local Taxation**

- 66.1 The prices tendered by the Contractor shall include all taxes that may be levied in accordance to the laws and regulations in being in Nepal on the date 30 days prior to the closing date for submissions of Bids on the Contractor’s equipment, plant and materials acquired for the purpose of the Contract and on the services performed under the Section IV. Nothing in the Contract shall relieve the Contractor from his responsibility to pay any tax that may be levied in Nepal on profits made by him in respect of the Contract.

#### **67. Value Added Tax**

- 67.1 The Contract is not exempted from value added tax. An amount specified in the schedule of taxes shall be paid by the Contractor in the concerned VAT office within time frame specified in VAT regulation.

#### **68. Income Taxes on Staff**

- 68.1 The Contractor’s staff, personnel and labour will be liable to pay personal income taxes in Nepal in respect of their salaries and wages, as are chargeable under the laws and regulations for the time being in force, and the Contractor shall perform such duties in regard to such deductions as may be imposed on him by such laws and regulations.

68.2 The issue of the Final Account Certificate pursuant to clause 56 shall be made only upon submittal by the Contractor of a certificate of income tax clearance from the Government of Nepal.

**69. Duties, Taxes and Royalties**

69.1 Any element of royalty, duty or tax in the price of any goods including fuel oil, lubricating oil, cement, timber, iron and iron goods locally procured by the Contractor for the works shall be included in the Contract rates and prices and no reimbursement or payment in that respect shall be made to the Contractor.

69.2 The Contractor shall familiarize himself with the rules and regulations of Nepal with regard to customs, duties, taxes, clearing of goods and equipment, immigration and the like, and it will be necessary for him to follow the required procedures regardless of the assistance as may be provided by the Employer wherever possible.

69.3 The Contractor shall pay and shall not be entitled to the reimbursement of cost of extracting construction materials such as sand, stone/boulder, gravel, etc. from the river beds or quarries. Such prices will be levied by the local District Development Committee (DDC) as may be in force at the time. The Contractor, sub-contractor(s) employed directly by him and for whom he is responsible, will not be exempted from payment of royalties, taxes or other kinds of surcharges on these construction materials so extracted and paid for to the DDC.

**70. Member of Government, etc, not Personally Liable**

70.1 No member or officer of GoN or the Employer or the Project Manager or any of their respective employees shall be in any way personally bound or liable for the act or obligations of the Employer under the Contract or answerable for any default or omission in the observance or performance of any of act, matter or thing which are herein contained.

**71. Approval of Use of Explosives**

71.1 No explosives of any kind shall be used by the Contractor without the prior consent of the Employer in writing and the Contractor shall provide, store and handle these and all other items of every kind whatsoever required for blasting operations, all at his own expense in a manner approved in writing by the Employer.

**72. Compliance with Regulations for Explosives**

72.1 The Contractor shall comply with all relevant ordinances, instructions and regulations which the Government, or other person or persons having due authority, may issue from time to time regarding the handling, transportation, storage and use of explosives.

**73. Permission for Blasting**

73.1 The Contractor shall at all times maintain full liaison with and inform well in advance, and obtain such permission as is required from all Government authorities, public bodies and private parties whatsoever concerned or affected, or likely to be concerned or affected by blasting operation.

#### **74. Records of Explosives**

74.1 Before the beginning of the Defects Liability Period, the Contractor shall account to the satisfaction of the Project Manager for all explosives brought on to the Site during the execution of the Contract and the Contractor shall remove all unused explosives from the Site on completion of works when ordered by the Project Manager.

#### **75. Traffic Diversion**

75.1 The Contractor shall include the necessary safety procedures regarding motorised and pedestrian traffic diversion that is needed in execution of the works. The Contractor shall include in his costing of works, any temporary works or diversion that are needed during the construction period. All traffic diversion should be designed for the safety of both the motoring public and the men at work. It shall ensure the uninterrupted flow of traffic and minimum inconvenience to the public during the period concerned. As such, adequate warning signs, flagmen and other relevant safety precautionary measures shall be provided to warn motorists and pedestrians well ahead of the intended diversion as directed by the Project Manager. All traffic devices used shall be designed in accordance with prevailing Department of Roads Guidelines or as instructed by the Project Manager.

#### **76. Conduct of Bidders**

76.1 The Bidder shall be responsible to fulfill his obligations as per the requirement of the Contract Agreement, Bidding documents, GoN's Procurement Act and Regulations.

76.2 The Bidder shall not carry out or cause to carry out the following acts with an intention to influence the implementation of the procurement process or the procurement agreement:

- a) Give or propose improper inducement directly or indirectly,
- b) Distortion or misrepresentation of facts,
- c) Engaging or being involved in corrupt or fraudulent practice,
- d) Interference in participation of other prospective bidders,
- e) Coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
- f) Collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Employer the benefit of open competitive bid price,
- g) Contacting the Employer with an intention to influence the Employer with regards to the bid or interference of any kind in examination and evaluation of

the bids during the period after opening of bids up to the notification of award of contract Section IV.

**77. Blacklisting Bidder**

77.1 Without prejudice to any other right of the Employer under this contract, the GoN, Public Procurement Monitoring Office may blacklist a bidder for his conduct up to three years on the following grounds and seriousness of the act committed by the bidder:

- a) If it is proved that the bidder committed acts pursuant to the Sub- Clause 76.2,
- b) If the bidder fails to sign an agreement pursuant to ITB clause 33.3,
- c) If it is proved later that the bidder/contractor has committed substantial defect in implementation of the contract or has not substantially fulfilled his obligations under the contract or the completed work is not of the specified quality as per the contract,
- d) If convicted by a court of law in a criminal offence which disqualifies the bidder from participating in the contract.
- e) If it is proved that the contract agreement signed by the bidder was based on false or misrepresentation of bidder's qualification information,
- f) Other acts mentioned in the SCC

77.2 A firm declared blacklisted and ineligible by the GoN and or concerned Donor Agency in case of donor funded project shall be ineligible to bid for a contract during the period of time determined by the PPMO and or the concerned donor agency.



VOLUME I

SECTION V

SPECIAL CONDITIONS OF  
CONTRACT



## Section V

### Special Conditions of Contract (SCC)

#### General Conditions of Contract Clause Reference

1.1	<p>The <b>Site</b> is located at <a href="#">Rasuwa District</a> .</p> <p>The “<b>Donor Agency</b>” means Not applicable, and “loan/credit/grant” refers to an: <i>None</i></p> <p>The <b>Employer</b> is: <i>Rasuwadhi Hydropower Company Limited, Rasuwadhi Hydroelectric Project.</i></p> <p>The <b>Employer’s Representative/Project Manager</b> is: <i>The Project Manager, Rasuwadhi Hydroelectric Project</i></p> <p>The <b>Intended Completion Date (Completion Date)</b> is: <i>Eighteen (18) months from the date of Commencement issued by the Employer.</i></p> <p>The <b>Name and Identification Number</b> of the Contract is: <i>Rasuwadhi-Chilime Hub 132kV D/C Transmission Line Works RGHPCL/RGHEP/073/74/TL-01</i></p> <p>The <b>Works</b> consist of:</p> <p><i>Construction of about 10.5 km long 132kV D/C transmission line on self-standing, galvanized latticed steel towers with ACSR “Bear” conductor and stringing optical ground wire and galvanized steel ground wire between the Rasuwadhi Hydroelectric Project Switchyard to Chilime Hub, including design, manufacture, shop test, supply, erection, stringing, field testing and commissioning all complete.</i></p> <p>The <b>Start Date (Effective Date)</b> shall be <i>The date of Signing of this Contract Agreement.</i></p> <p>The <b>Commencement Date</b> shall be the Start Date (Effective Date).</p> <p><b>Completion Certificate:</b> The certificate issued after the completion of the works and successful completion of Commissioning and Testing.</p> <p>The <b>Defects Liability Period</b> is <b>365 days from the Completion Date.</b></p>
2.2	Sectional Completion are: <i>None</i>
2.3	<p>The documents forming the Contract shall be interpreted in the following order of priority:</p> <p>i. Agreement</p>

	<ul style="list-style-type: none"> <li>ii. The Letter of Acceptance</li> <li>iii. Minutes of Negotiation meeting and addenda, if any</li> <li>iv. The Special Conditions of Contract</li> <li>v. The General Conditions of Contract</li> <li>vi. The Specification</li> <li>vii. The Drawings</li> <li>viii. The Bill of Quantities and</li> <li>ix. The Contractor's Bid</li> <li>x. Any other document forming part of the Contract</li> </ul>																														
3.1	<p>The language of the Contract documents is: <i>English</i>.          The law that applies to the Contract is: <i>the law of Nepal</i>.</p>																														
8.1	Schedule of Other Contractors : <i>None</i>																														
9.1	The Schedule of Key Personnel: <i>Project Manager, Project Engineer</i>																														
11.2	<p>Add a new item the sub-clause 11.2 as follows:  <i>d. faulty design or workmanship of the Contractor and/or Manufacturer.</i></p>																														
13.1	<p>The minimum insurance covers shall be:</p> <p>(a) <u>Cargo Insurance</u></p> <p>Covering loss or damage occurring, while in transit from the supplier's or manufacturer's works or stores until arrival at the Site, to the Facilities (including spare parts thereof) and to the construction equipment to be provided by the Contractor or its Subcontractors.</p> <table border="0"> <thead> <tr> <th><u>Amount</u></th> <th><u>Deductible limits</u></th> <th><u>Parties insured</u></th> <th><u>From</u></th> <th><u>To</u></th> </tr> </thead> <tbody> <tr> <td>110% of CIP cost</td> <td>(*)</td> <td>Contractor</td> <td>Dispatch Certificate</td> <td>Delivery to Site</td> </tr> </tbody> </table> <p>(*) Excess 5% of claimed amount subject to minimum of NPR 20,000 for normal and NPR 80,000 for act of God/major perils and collapse.</p> <p>(b) <u>Installation All Risks Insurance</u></p> <p>Covering physical loss or damage to the Facilities at the Site, occurring prior to completion of the Facilities, with an extended maintenance coverage for the Contractor's liability in respect of any loss or damage occurring during the defect liability period while the Contractor is on the Site for the purpose of performing its obligations during the defect liability period.</p> <table border="0"> <thead> <tr> <th><u>Amount</u></th> <th><u>Deductible limits</u></th> <th><u>Parties insured</u></th> <th><u>From</u></th> <th><u>To</u></th> </tr> </thead> <tbody> <tr> <td>110% of Contract Value</td> <td>(*)</td> <td>Contractor</td> <td>Delivery at Site</td> <td>Defect Liability Certificate</td> </tr> </tbody> </table> <p>(*) Excess 5% of claimed amount subject to minimum of NPR 10,000 for normal and NPR 30,000 for act of God/major perils and collapse.</p> <p>(c) <u>Employer/Contractors Personnel and Third Party Liability Insurance</u></p> <p>Covering bodily injury or death suffered by third parties (including the Employer's personnel) and loss of or damage to property (including the Employer's property and any parts of the Facilities that have been accepted by the Employer) occurring in connection with the supply and installation of the Facilities.</p> <table border="0"> <thead> <tr> <th><u>Amount</u></th> <th><u>Deductible limits</u></th> <th><u>Parties insured</u></th> <th><u>From</u></th> <th><u>To</u></th> </tr> </thead> <tbody> <tr> <td>NPR 1 million</td> <td>as in (b) above</td> <td>All Contractors Employees</td> <td>Commencement Date</td> <td>Defect Liability Period</td> </tr> </tbody> </table>	<u>Amount</u>	<u>Deductible limits</u>	<u>Parties insured</u>	<u>From</u>	<u>To</u>	110% of CIP cost	(*)	Contractor	Dispatch Certificate	Delivery to Site	<u>Amount</u>	<u>Deductible limits</u>	<u>Parties insured</u>	<u>From</u>	<u>To</u>	110% of Contract Value	(*)	Contractor	Delivery at Site	Defect Liability Certificate	<u>Amount</u>	<u>Deductible limits</u>	<u>Parties insured</u>	<u>From</u>	<u>To</u>	NPR 1 million	as in (b) above	All Contractors Employees	Commencement Date	Defect Liability Period
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	<p><i>NPR 1 million as in (b) above</i>      <i>Employer's Personnel (Group Insurance for 20 persons)</i>      <i>Commencement Date</i>      <i>Defect Liability Period</i></p> <p><i>NPR 1 million as in (b) above</i> <i>Per person total</i> <i>limit NPR 5 million</i>      <i>Third party Personnel</i>      <i>Commencement Date</i>      <i>Defect Liability Period</i></p> <p><i>NPR 5 million as in (b) above</i>      <i>Third party Property</i>      <i>Commencement Date</i>      <i>Defect Liability Period</i></p> <p>For personnel insurance, the amount stated shall be per person per occurrence and for unlimited number of occurrences. For third party property the amount stated is total limit for each occurrence for unlimited number of occurrences.</p>
13.1	<p>(d) <u>Insurance for Contractor's Equipment</u>  <i>Covering use of all equipments including vehicles used by the Contractor or its Subcontractors (whether or not owned by them) in connection with the supply and installation of the Facilities. Insurance coverage shall be for full value of the equipments.</i></p> <p><i>The Employer shall be named as co-insured under all insurance policies taken out by the Contractor except for the Third Party Liability and Contractors employees' compensation. All insurers' rights of subrogation against such co-insured's for losses or claims arising out of the performance of the Contract shall be waived under such policies.</i></p> <p><i>The minimum cover for personal injury or death insurance shall, however, be not less than as per requirements of the Labor Act of Nepal.</i></p>
14.1	Site Investigation Reports are: <i>None</i>
21.1	The Site Possession Date shall be: <i>The date signing of the Contract Agreement.</i> Add the following at the end of the Sub Clause 21.1: <i>If portion of the sites are available, the Contractor will have to plan accordingly and carry out the Works on the available sites.</i>
24.1, 24.2	Not applicable Not applicable
24.3	Replace first sentence of 24.3 with following <i>If any dispute arises and any one Party request for formation of DRB, DRB shall be formed within 30 days.</i> Add following at the end of the Sub-Clause: <i>If the two members appointed by the Parties fail to appoint Chairman of the DRB, Nepal Council of Arbitration (NEPCA) shall be requested for appointing a Chairman.</i>
25.2	Add the following at the end of 25.2: <i>If the DRB has done so, and no notice of intention to commence arbitration has been given by either party within thirty (30) days of such reference, the decision shall become final and binding upon the Employer and the Contractor. Any decision that has become</i>

	<i>final and binding shall be implemented by the parties forthwith</i>
25.3	Delete first sentence and replace with the following: Fees and types of reimbursable expenses to be paid to the DRB members: <i>As agreed during formation of DRB.</i>
25.4	The Institution whose Arbitration procedures shall be used: <i>Nepal Council of Arbitration (NEPCA).</i> The place for Arbitration shall be : <i>Kathmandu, Nepal</i>
26.1	The Contractor shall submit a revised Program for the Works within: <b>30 days from the Commencement Date.</b>
26.3	The period between Program updates is <b>60 days</b> The amount to be withheld for late submission of an updated Program is: <i>All due bills shall be withheld.</i>
32.1	Add following after Clause 32.1 a. <i>Technical Specifications shall specify what inspections and tests the Employer requires and where they are to be conducted. Besides this, the Employer or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Employer. The Employer shall notify the Contractor in writing, in a timely manner, of the identity of any representatives appointed for these purposes.</i> b. <i>The inspections and tests may be conducted on the premises of the Contractor or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Contractor or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Employer.</i> c. <i>Should any inspected or tested Goods fail to conform to the Specifications, the Employer may reject the Goods, and the Contractor shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Employer.</i> d. <i>The Employer's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival in Nepal shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Employer or its representative prior to the Goods' shipment from the country of origin.</i> e. <i>If inspection/test has to be carried out again due to contractor's reason, total cost of such inspection/test has to be borne by contractor.</i> f. <i>Nothing in Clauses here above shall in any way release the Contractor from any warranty or other obligations under this Contract.</i>
34.1	The Defects Liability Period is: 365 days from the Completion Date
37.4	Add this new sub-clause: <i>The quantities entered in the Bill of Quantities are only estimated quantities. After detailed site investigation and design, the Contractor shall prepare finalized Quantities within 3 months from the date of Contract Signing and submit to the Project Manager for approval. The Contractor shall agree to make no claims for anticipated profit or alleged losses because of any difference between the quantities tendered and finalized Quantities in the Contract.</i>  <i>The land at the Chilime Hub, Rasuwa, has not been fully acquired. In the case of change</i>

	<p><i>of the location of the Chilime Hub to another location, the contractor is obliged to carry out all related works under this contract up to that point. The Project Manager will notify about the location of the Chilime hub once it is confirmed.</i></p>
42	<p><i>Delete sub-clauses 42.1, 42.2 and 42.3 and replace with the following,</i></p> <p><b><u>42.1 General</u></b></p> <p><b><i>For Direct Payment</i></b> <i>Payment shall be made in Nepalese Rupees with direct payment through cheque for all activities including Plant and Equipments to be imported from abroad.</i></p> <p><b><i>For Payment through LC</i></b> <i>If Contractor requests Payment for Plant and Equipments from abroad through Letter of Credit, payment shall be made in Nepalese Rupees by establishing an irrevocable Letter of Credit of any bank authorized by Government of Nepal (GoN) as per prevailing rules and regulation of GoN. All the fees and charges required for opening of Letter of Credit inside and outside country shall be borne by the Contractor.</i></p>

42	<p>A. <u>Payment for Plant and Materials (Foreign Origin) for CIF Boarder Price</u></p> <p><b><u>For direct payment</u></b></p> <p>Ninety percent (90%) of the price against manufacture supply and delivery of Plant and equipment at site through as stated in clause against the submission of documents issued by the Employer/Employer's Representative confirming the delivery of goods in satisfactory conditions. The provisions of advance recovery deduction, retention and advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.</p> <p>Ten Percent (10%) of the price against manufacture supply and delivery of Plant and equipment shall be paid after issuance of Completion Certificate. The provisions of advance recovery deduction, if any, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.</p> <p><b><u>For payment through letter of credit (LC)</u></b></p> <p><b><u>On Shipment:</u></b> Fifty percent (50%) of the CIP-Nepal border price of the Plant and Materials shipped through irrevocable Letter of Credit opened in favor of the Contractor in a bank of Nepal , against shipping documents, comprising of clean on-board bill of lading for goods supplied from outside the Employer's country detailed invoice, inspection and test certificates issued by Employer's inspector/nominated inspection agency, and the manufacturer's factory inspection report, packing list, insurance certificate, certificates of origin and manufacturer's or supplier's warranty certificate. The provisions advance recovery deduction, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.</p> <p><b><u>On Delivery:</u></b> Forty percent (40%) of the CIP-Nepal border price against delivery of Plant and Materials at site. The payment will be made through irrevocable Letter of Credit opened in favor of the Contractor in a bank of Nepal, against the submission of documents issued by the Employer/Employer's Representative confirming the delivery of goods in satisfactory conditions. The provisions of advance recovery deduction, retention and Advance Tax (TDS) specified below under this clause shall also be taken into account during such payments.</p> <p>Ten Percent (10%) of the price against manufacture supply and delivery of Plant and equipment shall be paid after issuance of Completion Certificate. The provisions of advance recovery deduction, if any, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.</p> <p>B. <u>Payment for Insurance, Clearing, Forwarding and Inland Transportation to Site</u></p> <p><b><u>Progress Payment:</u></b> Ninety percent (90%) of the price for insurance, clearing, forwarding and transportation from the Nepal border or premises of EXW to the final destinations shall be paid against delivery of Plant and Materials to the Site, and against the submission of documents issued by the Employer/Employer's Representative confirming the delivery of goods in satisfactory conditions. The provisions of advance recovery deduction, retention and Advance Tax (TDS) as specified below under this clause shall be also taken in to account during such payments.</p>
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**Final Payment:** Balance ten percent (10%) of the price for insurance, clearing, forwarding and transportation from the Nepal border or premises of EXW to the final destinations shall be paid against issuance of Completion Certificate by the Employer. The provisions of advance recovery deduction, retention and Advance Tax (TDS) as specified below under this clause shall also be taken in to account during such payments.

**C. Payment for Plant and Materials (Local Origin)**

**For direct payment**

Ninety percent (90%) of the price against manufacture supply and delivery of Plant and equipment at site through as stated in clause against the submission of documents issued by the Employer/Employer's Representative confirming the delivery of goods in satisfactory conditions. The provisions of advance recovery deduction, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.

Ten Percent (10%) of the price against manufacture supply and delivery of Plant and equipment shall be paid after issuance of Completion Certificate. The provisions of advance recovery deduction, if any, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.

**D. Payment for Construction and Installations**

Ninety percent (90%) of the price for Construction and Installations works shall be paid against progress bill according to the progress report, approved by the Employer. The provisions of advance recovery deduction and retention as specified below under this clause shall be also taken in to account during such payments

Ten Percent (10%) of the price against manufacture supply and delivery of Plant and equipment shall be paid after issuance of Completion Certificate. The provisions of advance recovery deduction, if any, retention and Advance Tax (TDS) as specified below under this clause shall also be taken into account during such payments.

**E. Retention:**

Two and half percent (2.5%) of the total amount retained from each progress payment as retention shall be paid within fifteen (15) days upon successful completion of defect liability period.

Two and half percent (2.5%) of the total amount retained from each progress payment as retention shall be paid within fifteen (15) days upon receipt of income tax clearance certificate by Government of Nepal (GoN), Internal Revenue Department (IRD) and custom clearance documents showing the re-export of all the returnable items or tax payment Certificate for items disposed in the Country including fulfillment of all outstanding obligations. If the Contractor fails to clear all the required taxes, custom clearances and all outstanding obligations as mentioned above, such money shall be deducted from this portion of the Retention money



43.1	Delete sub-clause 43.1 (e),(f),(g) and (i)
43.3	<p>Delete this Sub-Clause entirely and replace by following:          Within 15 days of the occurrence of the Compensation event the Contractor shall claim for the same with all details on that. Upon receipt of such information the Project Manager shall assess the situation and may ask further details on the estimate submitted by the Contractor. If the Contractor's claim (including estimates therein) is reasonable, the Project Manager shall make adjustments on it.          The Employer will take decision on the request for extension of time for completion or for adjustment of the Contract price based on the assessment made by the Project Manager.</p>
44.1	<p>Insert sub-clause after 44.1</p> <ol style="list-style-type: none"> <li>1. <i>In the country of Origin</i>  <i>The prices bid by the Contractor shall include all taxes, duties and other charges imposed outside the Employer's country on the production, manufacture, sale and transport of the Contractor's Equipment, Plant, Materials and supplies to be used on or furnished under the Contract, and on the services performed under the Contract.</i></li> <li>2. <i>In Nepal</i>  <i>General:</i> <ol style="list-style-type: none"> <li>(a) <i>Unless otherwise specifically declared in the contract documents, the prices bid by the Contractor and its suppliers and subcontractors shall include business taxes and other taxes that may be levied in accordance with the laws and regulations in force or in effect in Nepal as of 28 days prior to the closing date for submission of tenders in the Employer's country on the Equipment, Plant, Materials and Supplies (permanent, temporary and consumables) acquired for the purpose of the Contract and on the services performed under the Contract. Whatsoever provisions made in the Contract document shall not relieve the Contractor, its suppliers and subcontractors from their responsibility to pay income tax that may be levied in the Employer's country on profits made by the Contractor, its suppliers and subcontractors in respect of the Contract.</i></li> <li>(b) <i>In the event that the origin of any of the Contractor's or its subcontractor's or the nominated subcontractor's plant, equipment and materials is India, the provisions for the exemption of customs duties and VAT as is mentioned in this clause shall be applied only under the ARE-1. Failure to comply with these conditions will result in application of normal customs duties, VAT as per prevailing rules and regulation of Government of Nepal (GoN).</i></li> </ol> </li> </ol>
44.1	<p><u>Duties on Equipment, Plant, Materials and Supplies:</u></p> <ol style="list-style-type: none"> <li>(a) <i>Equipment, plant, materials and supplies, imported by the Contractor for execution of the Works, shall be subject to payment of customs duty at a prevailing rate of CIP or Customs entry point value. This customs duty shall be paid by the Contractor at the time of import and will be reimbursed by the Employer to the Contractor upon submission of the original receipt issued by the Customs Department.</i></li> <li>(b) <i>VAT shall be exempted on all imported materials and equipment purchased for the use in the Works (shall be reimbursed by the Employer in case the Employer is unable to avail exempt facility).</i></li> <li>(c) <i>VAT applicable on plant and equipment supplied directly from manufacturing</i></li> </ol>

	<p><i>plant in the Employer's country shall be reimbursed.</i></p> <p><i>(d) The Contractor shall maintain records satisfactory to the Employer documenting use of all Plant, Materials and Supplies imported into and/or procured for the performance of the Works. If any of such Plant, Materials and/or Supplies, imported into Nepal or otherwise supplied to the Project at a special or preferential rate of Customs Duties or taxes, are misused or found to be used or appropriated for any purpose other than the Project, the Contractor shall be held fully responsible, and liable to pay customs duties, VAT and other taxes and/or any penalties as may be imposed in accordance with the prevailing laws and regulations of Nepal.</i></p> <p><i>(e) Income tax assessed in accordance with the prevailing Income Tax Act of Nepal and as per the provision of any specific Double Taxation Agreement, shall be imposed on the Contractor, its sub-contractors and nominated sub- contractors. An advance income tax as per the prevailing income Tax Act and Finance Act shall be deducted from the monthly progress payment of the Contractor.</i></p>
45.1	<p>Delete sub-clause 45.1 and replace with the following,  <i>The Contract Price shall be paid in Nepalese Currency</i></p>
46.1	<p>Delete sub-clauses 46.1, 46.2,46.3,<del>46.4</del> and <del>46.5</del> and replace it with the following:  <i>The Contract is fixed price contract and price adjustment shall not be applicable.</i></p>
47.1	<p>The proportion of payments retained is <i>five (5) percent</i>.</p>
48.1	<p>The liquidated damages for the whole of the Works due to Contractor's default are <i>0.05 % of the final Contract Price per day</i>.  The maximum amount of liquidated damages for the whole of the Works is <i>10 %</i> of the final Contract Price.</p>
49.1	<p>The bonus for the whole of the Works is <i>zero (0) percent</i> of the final Contract Price per day.  The maximum amount of Bonus for the whole of the Works is <i>zero (0) percent</i> of the final Contract Price.</p>
50.1	<p><i>The Advance Payment shall be ten percent (10%) of the initial Contract price excluding the provisional sums, day works and VAT and shall be made to the Contractor upon submission of acceptable Bank Guarantee for advance payment. Advance payment security shall be in the sample form specified in the Contract. The advance payment security shall be valid up to the validity of the Contract Period or any extension thereof.</i></p>
50.3	<p>The Advance Payment will be recovered as follows:  <i>Deduction shall be at the rate of 15% from each progress payment and shall be recovered before 80% of the payment of the contract amount.</i></p>
51.1	<p>The Performance Security shall be for the following minimum amounts equivalent as a percentage of the Contract Price: <i>Five percent (5%)</i> and an additional amount of <i>8%</i> of the Contract price if the Employer has increased the Performance Security amount pursuant to ITB Sub Clause 29.4  The standard form(s) of Performance Security acceptable to the Employer shall be: "<i>an Unconditional Bank Guarantee</i>" acceptable to the Employer of the type presented in <i>Section IX of the Bidding Documents</i>.</p>

57.1	The date by which operating and maintenance manuals are required is: <i>Prior to Completion Certificate.</i> The date by which “as built” drawings are required is: <i>Prior to Completion Certificate.</i>
57.2	The amount to be withheld for failing to produce “as built” drawings and/or operating and maintenance manuals by the date required is: <i>Full value of last Invoice.</i>
58.2(g)	The maximum number of days is: 30 days ; <i>consistent with clause 48.1 of liquidated damages</i>
59.1	The percentage to apply to the value of the work not completed, representing the Employer’s additional cost for completing the Works, is: 50%
63.1	The Project Manager has to obtain the specific approval of the Employer for taking any of the following actions: <i>a. Certifying additional costs determined under General Conditions of Contract Clause 43;</i> <i>b. Determining the extension of the intended Completion Date under General Conditions of Contract Clause 27;</i> <i>c. Issuing a Variation under General Conditions of Contract Clause 1 and 38, except in an emergency situation, as reasonably determined by the Engineer; emergency situation may be defined as the situation when protective measures must be taken for the safety of life or of the works or of adjoining property.</i> <i>d. Adjustment of rates under General Conditions of Contract Clause 37.</i>