

Section 9 - Contract Forms

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Notification of Award

[*Employer's letterhead*]

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 Bid Data Sheet*] for the Contract Price in the aggregate of [*amounts in words and figures*] [*name of currency*], as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose one of the Performance Security Forms included in Section 9 (Contract Forms) of the Bidding Document.

Authorized Signature:

Name and Title of Signatory:

Name of Agency:

Attachment: Contract Agreement

Contract Agreement

THIS AGREEMENT made on the [*insert number*] day of [*insert month*], [*insert year*],

BETWEEN

(1) [*name of the employer*], a Municipality incorporated under the laws of [*country of the employer*] and having its principal place of business at [*address of the employer*] (hereinafter called “the Employer”), and (2) [*name of the contractor*], a corporation incorporated under the laws of [*country of the contractor*] and having its principal place of business at [*address of the contractor*] (hereinafter called “the Contractor”).

WHEREAS the Employer desires to engage the Contractor to design, manufacture, test, deliver, install, complete and commission certain Facilities, viz. [*list of facilities*] (“the Facilities”) and the Contractor have agreed to such engagement upon and subject to the terms and conditions hereinafter appearing.

NOW IT IS HEREBY AGREED as follows:

Article 1 Contract Documents

1.1 Contract Documents (Reference GCC Clause 2)

The following documents shall constitute the Contract between the Employer and the Contractor, and each shall be read and construed as an integral part of the Contract:

- (a) This Contract Agreement and the Appendixes hereto
- (b) Letter of Bid and Price Schedules submitted by the Contractor
- (c) Special Conditions of Contract
- (d) List of Eligible Countries that was specified in Section 5 of the Bidding Document
- (e) General Conditions of Contract
- (f) Specifications
- (g) Drawings
- (h) Other completed Bidding Forms submitted with the Letter of Bid
- (i) Any other documents forming part of the Employer's Requirements
- (j) Any other documents shall be added here¹

1.2 Order of Precedence (Reference GCC Clause 2)

In the event of any ambiguity or conflict between the Contract Documents listed above, the order of precedence shall be the order in which the Contract Documents are listed in Article 1.1 (Contract Documents) above.

1.3 Definitions (Reference GCC Clause 1)

Capitalized words and phrases used herein shall have the same meanings as are ascribed to them in the General Conditions.

¹ Tables of Adjustment Data may be added if the contract provides for price adjustment (see GCC 11).

Article 2
Contract Price and
Terms of Payment

2.1 Contract Price (Reference GCC Clause 11)

The Employer hereby agrees to pay to the Contractor the Contract Price in consideration of the performance by the Contractor of its obligations hereunder. The Contract Price shall be the aggregate of [. . . amounts of foreign currency in words . . .], [. . . amounts in figures. . .] as specified in Price Schedule No. 5 (Grand Summary), [. . . amounts of local currency in words . . .], [. . . amounts in figures. . .], or such other sums as may be determined in accordance with the terms and conditions of the Contract.

2.2 Terms of Payment (Reference GCC Clause 12)

The terms and procedures of payment according to which the Employer will reimburse the Contractor are given in the Appendix (Terms and Procedures of Payment) hereto.

The Employer shall instruct its bank to issue an irrevocable confirmed documentary credit made available to the Contractor in a bank in the country of the Contractor. The credit shall be for an amount of [. . . amount equal to the total named in Schedule 1 less the advance payment to be made for plant and mandatory spare parts supplied from abroad. . .]; and shall be subject to the Uniform Customs and Practice for Documentary Credits 1993 Revision, ICC Publication No. 500.²

In the event that the amount payable under Schedule No. 1 is adjusted in accordance with GCC 11.2 or with any of the other terms of the Contract, the Employer shall arrange for the documentary credit to be amended accordingly

Article 3
Effective Date

3.1 Effective Date (Reference GCC Clause 1)

The Effective Date upon which the period until the Time for Completion of the Facilities shall be counted from is the date when all of the following conditions have been fulfilled:

- (a) This Contract Agreement has been duly executed for and on behalf of the Employer and the Contractor.
- (b) The Contractor has submitted to the Employer the performance security and the advance payment guarantee.
- (c) The Employer has paid the Contractor the advance payment.
- (d) The Contractor has been advised that the documentary credit referred to in Article 2.2 above has been issued in its favor.

Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.

- 3.2** If the conditions listed under 3.1 are not fulfilled within 2 months from the date of this Contract notification because of reasons not attributable to the Contractor, the parties shall discuss and agree on an equitable adjustment to the Contract Price and the Time for Completion and/or other relevant conditions of the Contract.

² Or Uniform Customs and Practice for Documentary Credits 2007 Revision, ICC Publication No. 600 (or the latest version).

**Article 4
Communications**

4.1 The address of the Employer for notice purposes, pursuant to GCC 4.1 is: [*Employer's address*].

4.2 The address of the Contractor for notice purposes, pursuant to GCC 4.1 is: [*Contractor's address*].

**Article 5.
Appendixes**

5.1 The Appendixes listed in the attached List of Appendixes shall be deemed to form an integral part of this Contract Agreement.

5.2 Reference in the Contract to any Appendix shall mean the Appendixes attached hereto, and the Contract shall be read and construed accordingly.

IN WITNESS WHEREOF the Employer and the Contractor have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

Signed by, for and on behalf of the Employer

[*Signature*]

[*Title*]

in the presence of

[*Signature*]

[*Title*]

Signed by, for and on behalf of the Contractor

[*Signature*]

[*Title*]

in the presence of

[*Signature*]

[*Title*]

Performance Security

..... *Bank's name, and address of issuing branch or office*¹

Beneficiary: *Name and address of the employer*

Date:

Performance Guarantee No.:

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

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

At the request of the Contractor, we *name of the bank*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *name of the currency and amount in words*². (*amount in figures*.) such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than the earlier of

(a) 18 months after our receipt of

- (i) a copy of the Completion Certificate; or
- (ii) a registered letter from the Contractor, attaching a copy of the notice to the project manager that the Facilities are ready for commissioning, and stating that 14 days have elapsed from receipt of such notice (or 7 days have elapsed if the notice was a repeated notice) and the project manager has failed to issue a Completion Certificate or inform the Contractor in writing of any defects or deficiencies; or
- (iii) a registered letter from the Contractor stating that no Completion Certificate has been issued but the Employer is making use of the Facilities; or

(b) the ____ day of ____, 2__.

Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

¹ All italicized text is for guidance on how to prepare this demand guarantee and shall be deleted from the final document.

² The guarantor shall insert an amount representing the percentage of the contract price specified in the contract and denominated either in the currency(ies) of the contract or a freely convertible currency acceptable to the employer.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458 (*or ICC Publication No. 758 as applicable*), except that subparagraph (ii) of Sub-Article 20(a) is hereby excluded.¹

.....
Signature(s) and seal of bank (where appropriate)

-- Note to Bidder --

If the institution issuing the performance security is located outside the country of the employer, it shall have a correspondent financial institution located in the country of the employer to make it enforceable.

¹ Or the same or similar to this clause specified in the Uniform Rules for Demand Guarantees, ICC Publication No. 758, where applicable.

Advance Payment Security

..... *Bank's name, and address of issuing branch or office*¹

Beneficiary: *Name and address of the employer*

Date:

Advance Payment Guarantee No.:

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

Furthermore, we understand that, according to the Conditions of the Contract, an advance payment in the sum *name of the currency and amount in words*². (*amount in figures*.) is to be made against an advance payment guarantee.

At the request of the Contractor, we *name of the bank*. hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *name of the currency and amount in words*³. (*amount in figures*.) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the advance payment for purposes other than the costs of mobilization in respect of the Works.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Contractor on its account number *contractor's account number*. at *name and address of the bank*.

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Contractor as indicated in copies of interim statements or payment certificates, which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate, indicating that 80% of the Contract Price has been certified for payment, or on the . . . day of . . . , . . . ,⁴ whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458 (*or ICC Publication No. 758 as applicable*).

¹ All italicized text serves as a guide for preparing this demand guarantee and shall be deleted from the final document.

² The guarantor shall insert an amount representing the amount of the advance payment denominated either in the currency(ies) of the advance payment as specified in the contract, or in a freely convertible currency acceptable to the employer.

³ Footnote 2.

⁴ Insert the expected expiration date of the time for completion. The employer should note that in the event of an extension of the time for completion of the contract, the employer would need to request an extension of this guarantee from the guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [6 months][1 year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."

.....
Signature(s) and seal of bank (where appropriate)

-- Note to Bidder --

If the institution issuing the advance payment security is located outside the country of the employer, it shall have a correspondent financial institution located in the country of the employer to make it enforceable.