

INVITATION TO TENDER FOR CONSTRUCTION WORKS (RENOVATION WORKS) IN MUNDRI WEST, WESTERN EQUATORIA STATE, SOUTH SUDAN.

Dear Sir/Madam,

Further to your enquiry regarding the publication of the above-mentioned Invitation to Tender, please see below and enclosed the list of documents which constitute the procurement documents.

A – Tender Information table

B – Instructions to tenderers

C – Draft Contract & Annexes:

Annex 1: General Terms and Conditions for Works Contracts

Annex 2: Tender Submission form (to be completed by the tenderer)

**Annex 3: Technical Specifications and requirements and Financial Proposal Form and
Breakdown of Overall Price**

Annex 4: Design Documents and Drawings

Annex 5: Performance guarantee

It is strictly forbidden to make alterations in the printed text. The tenderer will be bound to the original text in accordance with the document forwarded in PDF format or by letter.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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A. Tender Information Table

1. General Information							
1.1.	Contracting Authority Finn Church Aid – South Sudan Country Office						
1.2.	Invitation to tender reference no FCA/SSUCO012/2024						
1.3.	Procurement Method Open Tender						
1.4.	Contract Title Construction Works in Mundri West, Western Equatoria State						
1.5.	Contact Info <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 30%;">Name/Position:</td> <td>Senior Procurement Officer</td> </tr> <tr> <td>Email:</td> <td>Procurement.Ssuco@kua.fi</td> </tr> <tr> <td>Physical Address:</td> <td>Juba Na Bari, American Embassy Road, Opposite Nile Fortune Hotel</td> </tr> </table>	Name/Position:	Senior Procurement Officer	Email:	Procurement.Ssuco@kua.fi	Physical Address:	Juba Na Bari, American Embassy Road, Opposite Nile Fortune Hotel
Name/Position:	Senior Procurement Officer						
Email:	Procurement.Ssuco@kua.fi						
Physical Address:	Juba Na Bari, American Embassy Road, Opposite Nile Fortune Hotel						
2. Timeline, tender submission & opening (dates & hours are as per contracting authority time zone)							
2.1.	Date of issue of the Invitation to tender 11/15/2024						
2.2.	Deadline for submission of tenders (Date & Hour) 9/12/2024 11:30						
2.3.	Deadline for sending questions to contracting authority 2 days before submission deadline						
2.4.	How to send questions to the contracting authority Questions should be sent to contact person via email above.						
2.5.	Last date on which clarifications are issued by the Contracting Authority 2 days before submission deadline						
2.6.	Tender submission procedure <p>Tenders must be received at the address mentioned below by hand no later than the tender submission deadline (2.2). Any tenders received after the deadline will not be considered.</p> <p>Tenders shall be submitted in a sealed envelope bearing the following information:</p> <p>Procurement Committee Finn Church Aid (FCA) Juba Na Bari, American Embassy Residence- Turkish Embassy – UNESCO Road Plot # 536, Block 3k-South, Juba Na Bari Opposite Nile Fortune Hotel. Tender no.: FCA/SSUCO012/2024 <i>Invitation to Tender no.:</i> Provision of Construction Works in Mundri West <i>Tender receipt:</i> 15 November 2024 – 09 December 2024</p> <p>NOT TO BE OPENED BEFORE THE TENDER OPENING SESSION ON 9TH DECEMBER 2024 AT 11:31 AM</p> <p>All tenders must be submitted in one original, marked “original”.</p>						
2.7.	Tender opening session date, hour & location 9/12/2024 FCA office at Juba Na Bari, Opposite Nile Fortune Hotel						
2.8.	Tender opening session Tenderers are invited to participate in the tender opening session in person on the date, time and location station above IN 2.6.						
2.8.	Tender opening session Tenderers are invited to participate in the tender opening session in person and the hour and location station above.						
3. Content							
3.1.	Category of procurement Works						
3.2.	Scope of related works The subject of the contract is the execution of following works by the contractor: (i). Renovation works at Mundri Vocational Training Centre, Episcopal Diocese – Western Equatoria State						
3.3.	Is the tender divided into lots? YES						

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

3.4.	Can the tenderer bid against single lot, multiple lots or all lots of the tender?	Yes
3.5.	Lots	NO
3.6.	Delivery Location	Mundri West, Western Equatoria State
3.7.	Delivery Deadline	12/31/2024
4.	Price and Validity of Tenders	
4.1.	Currency of Price	USD
4.2.	Validity period of the tender (offer)	30 Days
5.	Eligibility Criteria (imposed on the tenderer)	

Tenderers must provide the documents listed below. Tenderers which do not provide the documents listed below will not be qualified for the evaluation.

#	Description	Means of verification and required documentation
1	Tender submission form	Tender submission form duly completed, signed and stamped by the Construction Company in accordance with the form in Annex 2 . This confirms that the bidder is in full agreement with all Terms and Conditions spelt out in this tender dossier. In addition, the Tenderer shall complete and submit all the documents comprising the tender in accordance with B.11
2	The Tenderer (including members of consortium and subcontractors, if any) is registered in the Trade Register in its country of domicile. The tenderer must also be operationally present in South Sudan with relevant registration in order. (YES/NO)	Tenderer shall confirm its registration by providing a valid Trade Register certificate. Certificate of Incorporation from the Ministry of Justice including the renewal stamps at the back page of the certificate.
3	Valid Membership Certificate	Membership Certificate from Ministry of Chambers and Commerce
4	Valid Operation License	Operation License from the State Ministry of Finance & Economic Development
5	Tax identification	Tax Identification Certificate from Ministry of Finance and Taxation or the South Sudan Revenue Authority
6	The Tenderer (including members of consortium and subcontractors, if any) has paid all taxes and pension contributions as well as other payments required by the applicable laws. (YES/NO)	Tenderer shall confirm this by providing a valid Tax Clearance certificate (NOT Certificate of Compliance) from South Sudan Revenue Authority (NRA).
7	Bank statement for the last 6 months	Bank statement for the last most recent six months in 2024 for the bank account of the company with comparative figures will suffice. This will determine the financial performance of the company.
8	Most update CVs to confirm experience of the Site Engineer and a foreman	A Site engineer with 5 years and above of experience in construction works and a Foreman with 2 years and above of experience in construction works Attach CVs as proof.
9	Contract documents and their order of presence	The tenderer must complete and return all the documents listed under article 18.

NOTE: A bidder who fails to meet any of the eligibility requirements imposed on the tenderer above, will be disqualified at this stage of evaluation.

6.	Contract Award Criteria
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Eligible offers will be evaluated according to the evaluation criteria below.

#	Description	Weight %	Scoring methodology, means of verification and required documentation
1	Price	30%	Comparison between the total values of each offer per Lot Lowest bidder receives full/ highest score (30%). The score of other bidders is calculated proportionally based on the lowest bid amount.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

			Formula: (lowest offer/tenderer's offered value) * 30															
2	Availability and feasible estimated completion time frame. Completion of the entire renovation works is required preferably within 30 calendar days upon issuance of Purchase Order/Contract. - Project timeline and milestones. -Critical path and key dependencies	20%	Realistic and detailed work plan. Feasibility of the project schedule. Well thought analysis of the critical path and key dependencies of the project If the Tenderer is able to complete the renovation and construction works within 30 calendar days, they will receive full score (20), above 31 – 60 calendar days the bidder will receive 10 points and above 60 calendar days, the tenderer will receive 0 points. If the tenderer is unable to complete the renovation works within the maximum of 60 calendar days, the tenderer must submit a schedule proposal.															
3	Demonstrated previous experience/ Past performance in civil works specifically in Western Equatoria State	30%	Maximum of three works contracts above 10,000 USD and 3 completion certificates for the same civil works. Full score 30. Points will be awarded with points according to table below: <table border="1" data-bbox="810 792 1366 965"> <thead> <tr> <th>#</th> <th>Location</th> <th>Points</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td>Mundri West</td> <td>15 points</td> </tr> <tr> <td>2.</td> <td>Yambio</td> <td>10 points</td> </tr> <tr> <td>3.</td> <td>Other locations within South Sudan</td> <td>05 points</td> </tr> <tr> <td colspan="2">Total</td> <td>30 points</td> </tr> </tbody> </table>	#	Location	Points	1.	Mundri West	15 points	2.	Yambio	10 points	3.	Other locations within South Sudan	05 points	Total		30 points
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Total		30 points																
5	Project Understanding and Approach -Approach and methodology -Proposed construction techniques.	10%	Relevance of the approach and methodology to context. Showing comprehensive understanding of the project scope and requirements. Adequacy of technical solutions proposed. Submission demonstrates clear project understanding and approach = 5 points The level of understanding of project is not clear from the submission or proposed approach is not in line with the technical requirements = 0 points															
6	Quality management plan. -Quality assurance and control procedures.	10%	Adequateness of the quality management plan and procedures. -Availability and correspondence of the measures for ensuring quality throughout the project. Yes = 5 points No = 0 points															

7.	Legal	
7.1.	Language of the offers	English
7.2.	The law of the country governing the contract	South Sudan
8.	Contract Awarding	
8.1.	Type of contract	One-off
8.2.	Contract start date (estimate)	12/16/2024
8.3.	Contract end date (estimate)	1/31/2025
8.4.	Warranty period	6 months after completion of the works.
8.5.	Language of the contract	English
9.	Guarantee(s)	
10.	Tender Guarantee	Not Required
11.	Performance Guarantee	Not Required
12.	Pre-financing Guarantee	Not Required

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

Note: Presentation/layout, preparation or submission of your bidding document, especially for Clauses 5 & 6 should follow the order of precedence of documents as specified above in the table above. Please ensure compliance with submission of all documents specified "Signed and stamped". You must not bind your tender documents using spiral binding for easy scanning of the tender documents and ensure that requirements specified above are well presented and submitted to the Contracting Authority.

B. INSTRUCTIONS TO TENDERERS

In submitting a tender, the tenderer accepts in full and without restriction the special and general conditions governing the procurement contract as the sole basis of this tendering procedure, whatever his own conditions of sale may be, which he hereby waives.

Tenderers are expected to examine carefully and comply with all instructions, forms, contract provisions and specifications contained in this tender dossier.

Failure to submit a tender containing all the required information and documentation within the deadline specified will lead to the rejection of the tender.

No account can be taken of any reservation in the tender as regards the tender dossier; any reservation will result in the immediate rejection of the tender without further evaluation.

B.1. Scope works

The Contracting Authority kindly requests bids for construction works as described in **Annex 3: Technical Specifications** and other documents constituting the tender, in Mundri West, Western Equatoria State, South Sudan.

Construction Companies bear sole liability for examining with appropriate care the tender, including the design documents available for inspection, and for obtaining reliable information with respect to any and all conditions and obligations that may in any way affect the amount or nature of the proposal or the execution of the Works. In the event that the Construction Company is successful, no claim for alteration of the proposal amount will be accepted on the grounds of errors or omissions in the obligations of the Construction Company described above.

One single contractor will be contracted based on the tender evaluation.

B.2. General

The works to be executed are for use by the Contracting Authority in its programme country as listed in **A. Tender Information Table / Section 1 (1.1)**.

B.3. Cost of Tender

The tenderer shall bear all costs associated with the preparation and submission of his tender and the Contracting Authority will in no case be responsible or liable for these costs, regardless of the conduct or outcome of the tender process.

B.4. Questions, clarification of tender documents and additional information

Tenderers may submit questions in writing to the Contracting Authority as per instructions and deadlines listed in **A – Tender Information Table / Section 2 (2.4)**.

Any clarification of the Invitation to Tender documents given by the Contracting Authority will be submitted to all tenderers at the same time (and prospective tenderers) at the latest on the date specified in the time table in **A – Tender Information Table / Section 2**.

Tenderers are not allowed to approach the Contracting Authority for oral clarification. Any (prospective) tenderer seeking to arrange individual meetings during the tender period with either the Contracting Authority and/or associated organisation may be excluded from the tender procedure.

B.5. Planned timetable

The Contracting Authority reserves the right to alter the dates and time, in which case all tenderers will be informed in writing and a new timetable will be provided.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
-------------------------------------------	---------------------

The timetable can be found in **A. Tender Information Table / Section 2**.

The hours in the timetable are as per time-zone of the country where the Contracting Authority is located.

B.6. Language of Tenders

The tenders, all correspondence and documents related to the tender exchanged by the tenderer and the Contracting Authority must be written in English. Supporting documents and printed literature furnished by the tenderer must be in English.

B.7. Evaluation Process

Prior to the tenderer's eligibility verification (as specified in **B.8 Exclusion from award of contracts & B.9 Eligibility Criteria imposed on the tenderer** Eligibility Criteria) and detailed evaluation (as specified in **B.10 Contract Award Criteria** **Error! Reference source not found.**) of the tenders, the procurement committee, (established by the Contracting Authority for the purposes of this tender procedure), shall ascertain whether the tenders;

- were submitted prior to tender submission deadline (Closing Date).
- have been properly signed;
- have been submitted according to the submission procedure in **A. Tender Information Table / Section 2**;
- and are otherwise generally in order.

If a tender is not substantially responsive i.e. it contains more than irrelevant deviations from or reservations to the terms, conditions and specifications in the tender dossier, it shall not be considered further.

Then the procurement committee will examine the technical admissibility of each tender, classifying it as technically compliant or non-compliant.

Tenders determined to be substantially responsive and technically compliant will be checked by the procurement committee for any arithmetic errors. Where there is a discrepancy between the amounts in the figures and words, the amount in words will govern. Where there are discrepancies between the unit price and the line-item total, derived from multiplying the unit rate by the quantity, the unit rate as quoted will govern. If a tenderer refuses to accept the correction, his tender will be rejected.

B.8. Exclusion from award of contracts

Tenderers are excluded if they are in one of the situations listed in article 16. of the **Annex 1: General Terms & Conditions for Work Contracts**.

Tenderers shall also comply with article 57. "Child Labour & Forced Labour" and article 58. "Mines" and article 59. "Anti-money laundering and combating the financing of terrorism" and article 21. Corrupt practices of the General Terms and Conditions for Work Contracts.

Tenderers are also excluded if any of the exclusion criteria here below applies to them:

- a) participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA (1);
- b) corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (2) and Article 2 (1) of Council Framework Decision 2003/568/JHA (3) as well as corruption as defined in the national law of the contracting authority or the economic operator;
- c) fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (4);
- d) terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA (5) respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
- e) money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council (6);
- f) child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council;
- g) Also a tenderer shall be excluded from participation in a procurement procedure where the contracting authority is aware that the tenderer is in breach of its obligations relating to the payment of taxes or social security contributions and where this has been established by a judicial or administrative

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the contracting authority.

Tenderers shall, in the **Annex 2: Tender Submission Form**, attest that they meet the above requirements. If required by the Contracting Authority, the Tenderer whose tender is accepted shall further provide evidence satisfactory to the Contracting Authority of its eligibility through certificates issued by competent authorities in its country of establishment or operation, or, if such certificates are not available, through a sworn statement.

If the tenderer was selected through prequalification, the tenderer must only declare that he still conforms with the eligibility and qualification (selection) criteria applied in the course of that prequalification.

Contracts may not be awarded to tenderers who:

- (a) are subject to conflict of interest
- (b) Are guilty of misrepresentation in supplying the information required as a condition of participation and eligibility in the tender procedure or fail to supply this information.
- (c) Perform, condone or tolerate corrupt, fraudulent, collusive or coercive practices, regardless of whether such practices can be attributed to this tender procedure;
- (d) Attempt to influence the evaluation committee in the process of examination, clarification, evaluation and comparison of tenders, to obtain information on how the procedure is progressing or to influence the Contracting Authority in its decision concerning the award of the contract.

B.9. Eligibility Criteria imposed on the tenderer

Tenderers will initially be verified for eligibility according to eligibility criteria in **A. Tender Information Table / Section 5**. The listed documents must be submitted with the bid.

Tenderers which do not fulfill the eligibility criteria and/or do not provide the required documents will not be qualified for the tender evaluation.

B.10. Contract Award Criteria

The tenders which have qualified the eligibility criteria will be evaluated according to the contract award criteria in **A. Tender Information Table / Section 6**.

B.11. Documents comprising the Tender:

The Tenderer shall complete and submit the following documents with its tender:

- a) Annex 1: General Terms and Conditions for Works Contracts
- b) Annex 2: Tender submission form with supporting documents
- c) Annex 3: Technical Specifications, requirements and requirements and Financial Proposal Form and Breakdown of Overall Price
- d) Annex 4: Design Documents and Drawings
- e) Annex 5: Performance guarantee**
- f) **Documentation regarding B.8 Exclusion from award of contracts**
- g) **Documentation regarding B.9 Eligibility Criteria imposed on the tenderer**
- h) **Documentation regarding B.10 Contract Award Criteria**
- i) all other relevant information that is required and that should be made known to the Contracting Authority

B.12. Financial Proposal and Price:

The price must be quoted in the currency as indicated in **A. Tender Information Table / Section 4**.

The final total price must be quoted in **Annex 2: Tender Submission Form** by the tenderer and it shall not be subject to adjustments on any account except as otherwise provided in the conditions of the contract.

The Price must include all costs related to the execution of the works and no supplementary invoicing or other costs are accepted.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
-------------------------------------------	---------------------

The remuneration of the Contractor under the Contract will be on a lump-sum/global basis. The Financial Proposal must be presented as a global price and breakdown of the overall price and be submitted using the **Annex 5: Financial Proposal Form and Breakdown of Overall Price**.

All items must be priced in United States Dollars (USD).

The global price must not include VAT, taxes, customs and import duties that are levied in accordance with the laws and regulations of the state of the Contracting Authority or the country of the execution of the works on the production, manufacture, sale and transport of the Contractor's plant, machinery, materials and supplies to be used on or furnished under the Contract.

The amounts entered in the Breakdown of Overall Price will be used for calculating payments and interim payments and for valuing variations.

The Construction Companies will be deemed to have taken full account of all requirements and obligations covered by all parts of this tender and to have priced the items in the Breakdown of Overall Price accordingly. The amount must include for all incidental and contingent expenses and risks of every kind necessary to construct, complete and maintain the whole of the works in accordance with the Contract. Unless separate items are provided in the breakdown, rates and sums include all costs involved in the various items in the breakdown. The item descriptions given in the breakdown will in no way limit the Contractor's obligations under the Contract to provide all the works described in the tender as a whole. Notwithstanding any limits which may be implied by the wording of individual items, the amounts entered will be deemed to be works that are complete in every respect.

B.13. Validity period of the tenders

Tenders shall remain valid and open for acceptance for the period as indicated in **A. Tender Information Table / Section 4** after the Closing Date for the submission of tenders.

Prior to the expiry of the original tender validity period, the Contracting Authority may ask for objective reasons tenderers in writing to extend this period. Tenderers that agree to do so will not be permitted to modify their tenders. If they refuse, their participation in the tender procedure will be terminated.

B.14. Sub-Contractors

If the Construction Company intends to use Sub-Contractors, he shall state in the Construction Company's **Annex 7: Technical Qualifications Form** **their names, qualifications, role and duties** in the performance of the Contract. The Construction Company shall have the liability to ensure that Sub-Contractors satisfy the eligibility requirements of the tender.

B.15. Joint ventures or consortia

If a Construction Company is a joint venture or consortium of two or more persons, the proposal must be single with the object of securing a single Contract, each person must sign the proposal, and all such persons shall be jointly and severally liable and bound by the proposal and any resulting Contract. Only one of such persons shall be designated in the **Annex 2: Tender Submission form** to act as leader with authority to bind the joint venture or consortium. For the purposes of the performance of the Contract, the joint venture or consortium shall act in accordance with the provisions of the **Annex 1 - General Terms and Conditions for Works Contracts** and the tender as a whole.

B.16. Laws of country of Works' execution

By submitting proposals, Construction Companies are deemed to have knowledge of and to have taken into consideration all relevant laws, acts and regulations of South Sudan that may in any way affect or govern the operations and activities covered by the proposal and the resulting Contract.

In completing the section on personnel to be employed on the Contract in **Annex 6: General and Financial Information Form**, the Construction Company shall pay special attention to article 57 of General Terms and Conditions for Works Contracts (Child Labour and Forced Labour). The Construction Company shall further have the obligation to comply with all regulations, rules or instructions concerning the conditions of employment of any class of employee according to the laws of South Sudan.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

B.17. Negotiations

The Contracting Authority reserves the right to contact those Construction Companies who **fulfil the tender eligibility requirements and respond to the requirements of the tender** to negotiate the terms of the tender. Negotiations will not entail any substantial deviation to the terms and conditions of the tender, but they may have the purpose of reducing the scope of the Works or revising other terms of the Contract in order to bring the proposed price down, when the proposed prices exceed the limits of the funds made available to the Contracting Authority by its donor/funding agency.

All the tenderers are treated equally under the negotiations phase and all of them have the same possibility and time to amend their proposals in relation to and in accordance with the amended terms and conditions of the tender during the negotiation phase.

B.18. Submission of tenders and Closing Date

Tenders must be submitted as indicated in **A. Tender Information Table / Section 2.**
No tender may be changed or withdrawn after the deadline has passed.

B.19. Tender opening session

Tender opening information is indicated in **A. Tender Information Table / Section 2.**
If the tenderers are invited to the tender opening session, tenderers are requested to contact the contact person, at least one day in advance of the tender opening if they will attend.
Tenderer's representatives who are present shall sign a register indicating their attendance.
At the tender opening, only the tenderers' names and the total amount of the tenders will be read aloud and recorded.

B.20. Award of Contract

The Contracting Authority will award the contract to the tenderer whose tender has been determined to be substantially responsive to the tender dossier and technically compliant, and who has received the highest scoring in the tender evaluation.

B.21. Signature of Contract

The Contracting Authority and the Contractor shall in cooperation prepare all documents listed in the Draft Contract Agreement, in order to include therein all details of the successful proposal. Within 2 days of notification of the award of the Contract, the successful Construction Company shall submit to the Contracting Authority, for its consent, a final implementation programme.

Within 2 days of receipt of the Contract already signed by the Contracting Authority, the successful Construction Company must sign and date the Contract and return it to the Contracting Authority. On signing the Contract, the successful Construction Company will become the Contractor, and the Contract will enter into force.

- a) If the successful Construction Company fails to sign and return the Contract 2 days after receipt of the Contract signed by the Contracting Authority, the Contracting Authority may consider the acceptance of the proposal to be cancelled without prejudice to the Contracting Authority's right to claim compensation or pursue any other remedy in respect of such failure, and the successful tenderer will have no claim whatsoever on the Contracting Authority.

B.22. Cancellation for convenience

The Contracting authority may for its own convenience and without charge or liability cancel the tender process at any stage.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
-------------------------------------------	---------------------

C. Draft Design and Build Contract Agreement

CONTRACT TITLE: Construction Works in Mundri West, Western Equatoria State

Invitation to Tender no.: FCA/SSUCO012/2024

Finn Church Aid – South Sudan Country Office
 Represented by the Country Director
 Juba Na Bari, Opposite Nile Fortune Hotel
 ("The Contracting Authority"),

of the one part,

and

<insert name and address of supplier>
 ("the Contractor")

of the other part,

have agreed as follows:

have agreed to enter into this Design and Build Contract. The Contractor shall complete the design for the Works and carry out and complete the construction of the Works in accordance with the contract documents. The parties have agreed on the following special conditions, which specify and/or amend the General Terms and Conditions for Works Contracts – (hereinafter the "General Terms and Conditions for Works Contracts"). The parties have agreed as follows:

Special Conditions

Article 1 Scope of Construction Works Agreement

The subject of the contract is the provision of the following construction works (hereinafter "Works") by the Contractor:

Item/Lot	Description	Quantity
1	Renovation works at Mundri Vocational Training Centre, Episcopal Diocese, Western Equatoria State, South Sudan	1 School

Article 2 Specifications

The works must correspond to the required specifications throughout the entire contract period. The works must also correspond to the information provided for the customer regarding the content, performance or other issues related to quality.

The works must suit the purpose for which such works are usually employed. The quality of the executed works shall at least correspond to any sample and demonstration of it provided for the customer in advance.

The works must fulfil the regulations of South Sudan regulations issued by the authorities.

The Contractor shall provide the Works prudently, with care and with such expertise that can reasonably be assumed from an expert contractor.

Article 3 Language

The service shall be provided in the English language, unless otherwise agreed. The persons providing the works must have the language skills required for performing the duties.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

Article 4 Monitoring quality

The Contractor shall monitor the implementation of the works and quality and shall report to the Contracting Authority's engineer and project manager on factors relating to the provision of the works in the agreed manner. The Contractor undertakes to develop its operations during the contract period in order to improve quality.

The Contracting Authority shall perform quality monitoring in accordance with its own needs. The Contractor must supply the information requested by the Contracting Authority for quality monitoring purposes by the agreed deadline.

Article 5 Subcontracting

The Contractor bears overall responsibility for meeting the obligations under the procurement contract, regardless of whether the Contractor is using subcontractors.

Article 6 Price

The amount of this contract is fixed at the total amount quoted in USD and is not subject to revision. The Price must include all costs related to the execution of works and no supplementary invoicing or other costs are accepted. It shall be the sole remuneration owed by the Contracting Authority to the Contractor under the contract.

Article 7 Payment terms:

Payment shall be made in USD to the following account:

<Insert provider's bank account details>

Article 8 The Engineer

For purposes of this Contract the Engineer is FCA's Construction Engineer or such other person as the Contracting Authority shall nominate in his place. Save to the extent that the Contracting Authority may otherwise specify by notice to the Contractor, the Engineer under any of the Conditions shall have full authority to receive and issue applications, consents, instructions, notices, requests or statements and otherwise to act for the Contracting Authority.

Article 9 Site

The Sites of the Works is located in Mundri West – Western Equatoria State.

Article 10 Programme of implementation

The Programme of Implementation is included in the Technical Specifications.

Article 11 Commencement date

The Commencement date is 19th December 2024.

Article 12 Period of implementation

The completion date shall be 31st December 2024 at the latest.

Article 13 Delays in implementation

The rate of liquidated damages is: 0.1% of the Contract value per day's delay.

The maximum amount for liquidated damages is 5% of the Contract Value.

Article 14 Conditions of payment

Payments will be made according to the following schedule:

Percentage	Condition
25%	Level of completion reaches 25% - upon delivery of construction materials to the schools' sites inspected and verified by FCA's engineer and Location Team Leader.
25%	Level of completion reaches 50% - upon completion of the foundation and walling and upon presentation of an invoice by the contractor supported by an evaluation

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
-------------------------------------------	---------------------

	report inspected and verified by FCA's engineer and approved by FCA's Education Advisor.
40%	Level of completion reaches 100% and upon presentation of an invoice by the contractor supported by an evaluation report inspected and verified by FCA's engineer and approved by FCA's Education Advisor and a Final Certificate of Completion.
10%	Retention fee payable six months after completion of the assignment (defect liability period) subject to the integrity of the works.
Grand Total	

Payments shall be made by bank transfer to:

Name of Payee: <insert>
Account Number: <insert>
Name of Bank: <insert>
Address of Bank: <insert>
Account name: <insert>
Swift Code: <insert>

Article 15 Measurement

The Contract is a global price contract and the Works shall therefore be measured in accordance with article 39.1 of the General Terms and Conditions for Works Contracts.

Article 16 Defects Liability Period

The Defects Liability Period shall be a period of six (6) months from the date of completion of the Works as specified in article 47 of the General Terms and Conditions for Works Contracts.

Article 17 Settlement of Disputes

Any dispute or breach of Contract arising under this Contract which cannot be settled amicably in accordance with article 63.1 of the General Terms and Conditions for Works Contracts, shall be finally settled by Juba High Court in accordance with the laws of South Sudan.

Article 18 Contract documents and their order of presence

The contract is made up of the following documents, in order of precedence:

1. this Works Contract
2. Invitation to Tender documentation
3. Annex 1: General Terms & Conditions for Works Contracts
4. Annex 2: Tender Submission Form and related and required documentation
5. Annex 3: Technical Specifications, requirements and Financial Proposal Form and Breakdown of Overall Price
6. Annex 4: Design Documents and Drawings
7. **Annex 5: Performance guarantee**

The various documents making up the contract shall be deemed to be mutually explanatory; in cases of ambiguity or divergence, they should be read in the order in which they appear above.

Article 19 Entry into force / Duration

The contract shall enter into force and effect after signature by both parties of this Works contract.

The Contract shall remain into force and effect until the end of the liability period as defined in the Annex 1 - General Terms and Conditions for Works Contracts.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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Article 20 Law and Disputes

The Law of the Country of the Contracting Authority shall govern all matters of the contract. Any dispute or breach of contract arising under this contract which cannot be settled amicably, shall be finally settled by Juba High Court in accordance with the laws of South Sudan.

Article 21 Assigning of the contract

The Contractor has no right to assign this contract to a third party without a prior consent from the Contracting Authority.

Done in English in **three originals, two originals** being for the Contracting Authority and one original being for the Contractor.

For the Contractor		For the Contracting Authority	
Name:		Name:	
Title:		Title:	
Signature:		Signature:	
Date:		Date:	
Seal:		Seal:	

ANNEX 1 - GENERAL TERMS AND CONDITIONS FOR WORKS CONTRACTS

GENERAL

1. DEFINITIONS

In these general terms and conditions:

- 1.1. "Contract" is the agreement entered into by the Contracting Authority and the Contractor for the execution and completion of the Works, to which these general terms and conditions are made applicable; the Contract is constituted of the documents listed in the Contract Agreement;
- 1.2. "Works" are what the Contract requires the Contractor to construct, install and turn over to the Contracting Authority, as described in the Technical Specifications;
- 1.3. "Temporary Works" include items to be constructed by the Contractor which are not intended to be permanent and form part of the Works;
- 1.4. "Engineer", "Supervisor" and "Project Manager" might be used interchangeably in the Contractual documents; each term means the person responsible for supervising the execution of the Works, and monitoring and administering the execution of the Contract on behalf of the Contracting Authority;
- 1.5. "beneficiary country" is the country where the Works are to be constructed;
- 1.6. "breakdown of the overall price" is the heading-by-heading list of the rates and costs making up the price for a global price Contract;
- 1.7. "bill of quantities" is the document in which the costs of the Works are indicated, on the basis of the foreseen quantities of items of work and the fixed unit prices applicable to them;
- 1.8. "Contract Price" is the sum agreed in the Contract as payable to the Contractor for the execution and completion of the Works and for the remedying of any defects therein in accordance with the Contract;
- 1.9. "Site" is the land and other places on, under, in or through which the Works are to be constructed;
- 1.10. the Contracting Authority's "partners" are the organisations to which the Contracting Authority is associated or linked.

2. LANGUAGE AND LAW

The Contract, all documents relating to the Contract and all written communications between the parties shall be in English.

Unless specified otherwise in the Contract agreement, the law governing the Contract shall be the law of the country of the Contracting Authority.

3. GENERAL DUTIES AND POWERS OF THE ENGINEER

3.1. The Engineer shall provide administration and monitoring of the Contract and supervision of the Works as provided in the Contract. In particular, he shall perform the functions described in these general terms and conditions.

3.2. The Engineer shall be the Contracting Authority's representative vis-à-vis the Contractor during construction and until final payment is due. The Engineer shall advise and with the Contracting Authority. The Contracting Authority's instructions to the Contractor shall be forwarded through the Engineer. The Engineer shall have authority to act on behalf of the Contracting Authority only to the extent provided in the Contract Documents as they may be amended in writing in accordance with the Contract. The duties, responsibilities and limitations of authority of the Engineer as the Contracting Authority's representative during construction as set forth in the Contract shall not be modified or extended without the written consent of the Contracting Authority, the Contractor and the Engineer.

3.3. The Engineer shall visit the Site at intervals appropriate to the stage of construction to familiarize himself generally with the progress and quality of the Works and to determine in general if the Works are proceeding in accordance with the Contract. On the basis of his on-Site observations as an Engineer, he shall keep the Contracting Authority informed of the progress of the Works.

3.4. The Engineer shall have authority to issue to the Contractor, on behalf of the Contracting Authority, administrative orders incorporating such supplementary documents and instructions as are necessary for the proper execution of the Works and the remedying of any defects therein.

3.5. The Engineer shall not be responsible for and will not have control or charge of construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Works or the Temporary Works. The Engineer shall not be responsible for or have control or charge over the acts or omissions of

the Contractor (including the Contractor's failure to carry out the Works in accordance with the Contract) and of Sub-contractors or any of their agents or employees, or any other persons performing services for the Works, except if such acts or omissions are caused by the Engineer's failure to perform his functions in accordance with the contract between the Contracting Authority and the Engineer.

3.6. Except where expressly stated in the Contract, the Engineer shall not have authority to relieve the Contractor of any of his obligations.

3.7. The Contractor shall ensure that the Engineer has at all times free access to the Site or any other place where the Works are carried out or prepared. The Contractor shall provide facilities for such access so that the Engineer may perform his functions under the Contract.

3.8. Based on the Engineer's observations and an evaluation of the documentation submitted by the Contractor together with the invoices and requests for payment, the Engineer shall determine the amounts owed to the Contractor and shall issue Payment Certificates as appropriate.

3.9. The Contractor shall provide the Engineer with any information he might require. The Engineer may arrange for the supervision and inspection of any item being prepared and manufactured for supply under the Contract. To this end, he may apply such tests as he considers necessary in order to establish whether the materials and objects are of the requisite quality and quantity. He may require the replacement or repair, as the case may be, of items, which do not conform with the Contract, even after their installation. The Contractor may not rely on the fact that such supervision and inspection have been effected in order to evade his responsibility in the event of the Works being rejected by the Engineer.

3.10. In the performance of his duties, the Engineer shall not disclose information on the methods of manufacture and operation of the undertakings which he has obtained by reason of his supervision and inspection, except to those authorities that need to know it.

4. ASSIGNMENT AND SUB-CONTRACTING

4.1. The Contractor shall not, except after obtaining the prior written authorization of the Contracting Authority, assign, transfer, pledge or make other disposition of the Contract or any part thereof or of any of the Contractor's rights, claims or obligations under the Contract.

4.2. The Contractor shall not sub-contract without the prior written authorisation of the Contracting Authority. Sub-contractors must satisfy the eligibility criteria of article 61, as well as the conditions of articles 57, 58, 59 and 60. The approval by the Contracting Authority of the sub-contracting of any part of the Contract or of the sub-contractor to perform any part of the Works shall not relieve the Contractor of any of his obligations under the Contract.

5. SUPPLY OF DOCUMENTS

The Contracting Authority shall provide the Contractor, free of charge, with a copy of the drawings prepared for the implementation of the Contract and a copy of the specifications. The Contract agreement shall list the documents and items which may be placed at the disposal of the Contractor, at the latter's request, to facilitate his work.

Unless it is necessary for the purposes of the Contract, the drawings, specifications and other documents provided by the Contracting Authority shall not be used or communicated to a third party by the Contractor without the prior consent of the Engineer.

6. ACCESS TO SITE

6.1. The Contracting Authority shall, in due time and in conformity with the progress of the Works, place the Site and access thereto at the disposal of the Contractor in accordance with the programme of implementation referred to in these General Terms and Conditions.

6.2. Land procured for the Contractor by the Contracting Authority shall not be used by the Contractor for purposes other than the implementation of the Contract.

6.3. The Contractor shall keep any premises placed at his disposal in good condition while he is in occupation.

6.4. The Contractor shall allow the Engineer and any person authorized by the Engineer or the Contracting Authority access to the Site and to any place where work in connection with the Contract is being carried out.

7. CONTRACTOR'S GENERAL OBLIGATIONS

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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7.1. The Contractor shall, with due care and diligence, and in accordance with the provisions of the Contract, design the Works to the extent stated in the Contract, and execute, complete and remedy any defects in the Works. The Contractor shall provide all superintendence, personnel, materials, plant, equipment and all other items, whether of a temporary or permanent nature, required for the design, execution and completion of Works, and for remedying any defects, in so far as is specified in, or can be reasonably inferred from, the Contract. The Contractor shall take full responsibility for the adequacy, stability and safety of all operations and methods of construction under the Contract.

7.2. The Contractor shall comply fully with any administrative orders given to him by the Engineer and shall ensure that the specifications and administrative orders are adhered to by his own employees and by his sub-contractors and their employees. If, within 14 days after receipt of a notice from the Engineer requiring compliance with an instruction the Contractor does not comply, the Contracting Authority may employ and pay other persons to execute any Work which may be necessary to give effect to that instruction. The Contractor shall be liable for all additional costs incurred by the Contracting Party in connection with such employment and an appropriate deduction shall be made from the Contract Price.

8. PROGRAMME OF IMPLEMENTATION

8.1. Within the time specified in the Contract agreement, the Contractor shall submit a programme of implementation of the Contract for the approval of the Engineer. The programme shall contain at least the following:

- a) the order in which the Contractor proposes to carry out the Works;
- b) the deadlines for submission and approval of the drawings, if applicable;
- c) a general description of the methods which the Contractor proposes to adopt for carrying out the Works; and
- d) such further details and information as the Engineer may reasonably require.

The approval of the programme by the Engineer shall not relieve the Contractor of any of his obligations under the Contract.

8.2. No material alteration to the programme of implementation shall be made without the approval of the Engineer. If, however, the progress of the Works does not conform to the programme, the Engineer may instruct the Contractor to revise the programme and submit the revised programme to him for approval.

9. CONTRACTOR'S STAFF AND EMPLOYEES

The staff and workmen employed by the Contractor must be sufficient in number, and each must have the qualifications necessary to ensure due progress and satisfactory execution of the Works. The Contractor shall immediately replace all persons indicated by the Engineer, in a letter stating reasons, as hampering the proper execution of the Works. The Contractor shall make his own arrangements for the engagement of all staff and labour. He shall comply with all the relevant labour laws applying to his employees, shall duly pay them and afford them all their legal rights. The Contractor shall comply with article 58, Child Labour and Forced Labour.

10. EQUIPMENT

The equipment, which the Contractor has at the Site, shall be deemed to be for the purpose of carrying out the Works. The Contractor shall not be entitled to remove it without the written consent of the Engineer unless he shows that the said equipment is no longer required for the performance of the Works.

11. CONTRACTOR'S DRAWINGS

11.1. The Contractor shall submit to the Engineer for approval:

- a) the drawings, documents, samples and/or models, according to the time limits and procedures laid down in the Contract agreement;
 - b) such drawings as the Engineer may reasonably require for the implementation of the Contract.
- The approval of the drawings, documents, samples or models by the Engineer shall not relieve the Contractor from any of his obligations under the Contract.

11.2. Before the issue of the Certificate of Substantial Completion of the Works by the Engineer, the Contractor shall supply for the retention and use of the Contracting Authority such Contractor's design documents and related information as may be specified in the contracts documents or as the Contracting Authority may reasonably require,

including operating and maintenance manuals together with drawings, which shall be detailed enough to enable the Contracting Authority to operate, maintain, adjust and repair all parts of the Works.

11.3. These detailed drawings, documents and items may not be reproduced or used for another purpose by the Contracting Authority, nor communicated to third parties, except with the Contractor's agreement and on payment of fair compensation.

12. SAFETY ON SITE AND NON-DISTURBANCE

12.1. The Contractor shall ensure the safety of the Site and the safety of all activities on the Site throughout the period of execution and shall be responsible for taking the necessary steps, in the interests of his employees, agents of the Contracting Authority and third parties, to prevent any loss or accident which may result from carrying out the Works. The Contractor shall, on his own responsibility and at his own expense, do his utmost to ensure that existing structures and installations are protected, preserved and maintained. He shall be responsible for providing and maintaining at his own expense all lighting, protection, fencing and security equipment that proves necessary for the proper implementation of the Works or that the Engineer may reasonably require.

12.2. On his own responsibility and at his expense, the Contractor shall take all the precautions required by good construction practice and by the prevailing circumstances to safeguard adjacent properties and avoid causing any abnormal disturbance therein.

12.3. The Contractor shall ensure that all operations necessary for the execution of the Works are carried on so as not to interfere unnecessarily or improperly with the public convenience, and in particular with traffic or communication links, underground cables, conduits and installations.

12.4. The Contractor shall hold harmless and indemnify the Contractor in respect of all claims, demands, proceedings, damages, costs, charges and expenses whatsoever arising out of or in relation to the Contractor's failure to comply with his obligations under this article.

13. SETTING-OUT

13.1. The Contractor shall be responsible for:

- a) the accurate setting-out of the Works in relation to the original marks, lines and reference levels provided by the Engineer;
- b) the accuracy of the positioning, levelling, dimensioning and alignment of all parts of the Works;
- c) the provision of all necessary instruments, accessories and labour in connection with the foregoing responsibilities; and
- d) the review of the Engineering design and details of the Works; he shall inform the Contracting Authority of any mistakes or incorrectness in such design and details which would affect the Works.

13.2. If, at any time during the execution of the Works, any error appears in the positioning, levelling, dimensioning or alignment of any part of the Works, the Contractor shall, if the Engineer so requires, rectify such errors at his own cost and to the satisfaction of the Engineer, unless the error is based on inaccurate data supplied by the Engineer, in which case the Contracting Authority shall be responsible for the cost of rectification.

13.3. The checking of any setting-out or of any alignment or levelling by the Engineer shall in no way relieve the Contractor of his responsibility for the accuracy of these operations. The Contractor shall carefully protect and preserve all markers, sight rails, pegs and other items used in setting out the Works.

14. TEMPORARY WORKS

The Contractor shall carry out at his expense all the Temporary Works to enable the Works to be carried out. He shall submit to the Engineer drawings of Temporary Works, which he intends to use, such as cofferdams, scaffolding, trusses and shuttering. He shall take account of any observations made to him by the Engineer, while remaining responsible for these drawings.

15. DISCOVERIES

Discoveries of any interest whatsoever made during excavation or demolition work shall immediately be brought to the attention of the Engineer. The Engineer shall decide how such discoveries are to be dealt with, taking due account of the law of the beneficiary country.

16. RESPONSIBILITY FOR LOSS OR DAMAGE

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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From the commencement date of the Works to the date of substantial completion as stated in the Certificate of Substantial Completion, the Contractor shall take full responsibility for the care of the Works and of all Temporary Works.

The Contractor shall be liable for, and shall indemnify the Contracting Authority against, any expense, liability, loss, claim or proceedings whatsoever in respect of personal injury to or the death of any person arising out of or in the course of or caused by the carrying out of the Works, except to the extent that the same is due to any act or neglect of the Contracting Authority.

The Contractor shall be liable for, and shall indemnify the Contracting Authority against, any expense, liability, loss, claim or proceedings in respect of any loss, injury or damage whatsoever to any property real or personal in so far as such loss, injury or damage arises out of or in the course of or by reason of the carrying out of the Works and to the extent that the same is due to any negligence, breach of statutory duty, omission or default of the Contractor.

In the event that any damage or loss should happen to the Works or to any part thereof or to any Temporary Works from any cause whatsoever, save and except as shall be due to *Force Majeure* as defined in article 56, the Contractor shall at his own cost repair and make good the same so that, at completion, the Works shall be in good order and condition and in conformity in every respect with the requirements of the Contract and the Engineer's instructions. The Contractor shall also be liable for any damage to the Works occasioned by him in the course of any operations carried out by him for the purpose of complying with his obligations under article 49.

17. INSURANCE

17.1. Without limiting his obligations and responsibilities under the Contract, the Contractor shall take out the insurances specified in articles 17.2., 17.3 and 17.4. Each insurance shall be effected with insurers and in terms approved by the Contracting Authority. Before the commencement date, the Contractor shall submit to the Engineer copies of the policies. When each premium is paid, the Contractor shall submit evidence of payment to the Engineer. The Contractor shall comply with the conditions stipulated in each of the insurance policies. Such insurance shall take effect from the commencement of the Works and remain in force until the issue by the Engineer of the Certificate of Final Completion of the Works. Each insurance shall be taken in the joint names of the Contracting Authority' and the Contractor.

17.2. The Contractor shall take out insurance against any loss or damage for which the Contractor is liable under the Contract arising from a cause occurring prior to the issue of the Certificate of Substantial Completion, and for loss or damage caused by the Contractor in the course of any other operation (including those under article 49). Such insurance shall cover:

- a) the Works, together with materials and plant for incorporation therein and drawings, to the full replacement cost against all loss or damage from whatever cause arising other than from *force majeure*;
- b) an additional sum of 10% of such replacement cost or any other amount specified in the Contract agreement, to cover all the additional direct or indirect costs of making good losses or damage, including professional fees and the cost of demolishing and removing any part of the Works and of removing debris of whatever nature;
- c) the Contractor's equipment, plant and other things brought onto the Site by the Contractor, for a sum sufficient to provide their replacement at the Site.

17.3. The Contractor shall insure against each party's liability for any loss, damage, death or bodily injury which may occur to any physical property (except things insured under article 17.2) or to any person (except persons insured under article 17.4), which may arise out of the Contractor's performance of the Contract and occurring before the issue of the Certificate of Final Completion. Unless provided otherwise in the Contract agreement, this insurance shall be extended to cover liability for all loss and damage to the Contracting Authority's property (except things insured under article 17.2).

17.4. The Contractor shall take out insurance against both his own liability, and the Contracting Authority and Engineer's liability, for claims, damages, losses and expenses (including legal fees and expenses) arising from injury, sickness, disease or death of the Contractor's representative, all personnel whom the Contractor utilises on Site, including staff of the Contractor and of each sub-contractor, and any other personnel assisting the Contractor in the execution of the

Works. The insurance shall remain in full force and effect during the whole time that these personnel are assisting in the execution of the Works or the remedying of defects.

18. COMPLIANCE WITH LAWS AND RESPECT OF TRADITIONS

18.1. The Contractor shall respect and abide by all laws and regulations in force in the beneficiary country and shall ensure that its personnel, their dependants, and its local employees and sub-contractors also respect and abide by all such laws and regulations. The Contractor shall indemnify the Contracting Authority against any claims and proceedings arising from any infringement of such laws and regulations.

18.2. The Contractor, its personnel and sub-contractors shall respect human rights and undertake not to offend the political, cultural and religious practices prevailing in the beneficiary country.

19. DISCRETION AND CONFIDENTIALITY

The Contractor shall treat all documents and information received in connection with the Contract as private and confidential, and shall not disclose any particulars of the Contract without the prior consent in writing of the Contracting Authority. It shall, in particular, refrain from making any public statements concerning the project or the Works without the prior approval of the Contracting Authority.

20. CONFLICT OF INTEREST

The Contractor shall refrain from engaging in any activity which conflicts with his obligations towards the Contracting Authority under the Contract. The Contractor shall take all necessary measures to prevent or end any situation that could compromise the impartial and objective performance of the Contract. Such conflict of interests could arise in particular as a result of economic interest, political or national affinity, family or emotional ties, or any other relevant connection or shared interest. In particular, the Contractor and his employees or any other company with which the Contractor is associated or linked may not, even on an ancillary or sub-contracting basis, supply other services, carry out works or supply equipment or materials for the project to which the Works relate. Any conflict of interests which could arise during performance of the Contract must be notified in writing to the Contracting Authority without delay. The Contractor shall replace, immediately and without compensation from the Contracting Authority, any member of its personnel exposed to such a situation.

21. CORRUPT PRACTICES

21.1. The Contractor and his personnel shall refrain from performing, condoning or tolerating any corrupt, fraudulent, collusive or coercive practices, whether such practices are in relation with the performance of the Contract or not. "Corrupt practice" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value as an inducement or reward for doing or forbearing to do any act in relation to the Contract or any other Contract with the Contracting Authority, or for showing favour or disfavour to any person in relation to the Contract or any other Contract with the Contracting Authority.

21.2. The payments to the Contractor under the Contract shall constitute the only income or benefit it may derive in connection with the Contract and neither he nor his personnel shall accept any commission, discount, allowance, indirect payment or other consideration in connection with, or in relation to, or in discharge of, its obligations under the Contract.

21.3. The execution of the Contract shall not give rise to unusual commercial expenses. Unusual commercial expenses are commissions not mentioned in the Contract or not stemming from a properly concluded contract referring to the Contract, commissions not paid in return for any actual and legitimate service, commissions remitted to a tax haven, commissions paid to a recipient who is not clearly identified or commission paid to a company which has every appearance of being a front company.

22. JOINT VENTURE OR CONSORTIUM

If the Contractor is a joint venture or consortium of two or more persons, all such persons shall be jointly and severally bound to fulfil the terms of the Contract. The person designated by the joint venture or consortium to act on its behalf for the purposes of this Contract shall have the authority to bind the joint venture or consortium.

For the purposes of performance of the Contract, the joint venture or consortium shall act as, an be considered, a single person and, in particular, shall have bank account(s) opened in its name, shall submit to the Contracting Authority single guarantees if required, and shall submit single requests for payment and single reports.

The composition of the joint venture or consortium shall not be altered without the prior written consent of the Contracting Authority.

23. GUARANTEES

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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23.1. If specified in the Contract agreement, and as guarantee for his proper and efficient performance of the Contract, the Contractor shall on signature of the Contract provide the Contracting Authority with a performance guarantee issued for the benefit of the Contracting Authority. The amount and character of such performance guarantee shall be as indicated in the Contract agreement.

23.2. In the case an advance payment is agreed in the Contract agreement, its payment by the Contracting Authority shall be subject to the prior presentation by the Contractor to the Contracting Authority of an approved performance security or advance payment guarantee, if so agreed and under the conditions specified in the Contract agreement.

COMMENCEMENT OF IMPLEMENTATION AND DELAYS

24. COMMENCEMENT DATE

The date on which implementation of the Contract by the Contractor is to commence shall be specified in the Contract agreement or shall be determined by an administrative order issued by the Engineer to the Contractor within a time period specified in the Contract agreement.

25. PERIOD OF IMPLEMENTATION

The period of implementation of the Works shall commence on the date fixed in accordance with Article 24. The period of implementation shall be specified in the Contract agreement, without prejudice to extensions of the period, which may be granted under Article 26.

26. EXTENSION OF THE PERIOD OF IMPLEMENTATION

26.1. If and whenever it becomes reasonably apparent that the progress of the Works or any section in being or is likely to be delayed the Contractor shall forthwith give a notice to the Contracting Authority of the material circumstances, including the causes of delay. The Contractor may request the Contracting Authority an extension of the period of implementation if his implementation of the Contract is delayed, or expected to be delayed, for any of the following reasons:

- a) exceptional weather conditions in the beneficiary country;
- b) artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor;
- c) administrative orders affecting the date of completion other than those arising from the Contractor's default;
- d) failure of the Contracting Authority to fulfil its obligations under the Contract;
- e) any suspension of the Works which is not due to the Contractor's default;
- f) *force majeure* in accordance with article 56.

26.2. The Contracting Authority shall, upon such request for extension, determine whether the extension is justified, and if so, the period of any such extension of time.

27. DELAYS IN IMPLEMENTATION

If the Contractor fails to complete the Works by the deadline(s) specified in the Contract and in his programme of implementation approved by the Engineer in accordance with article 8, the Contracting Authority shall, without formal notice and without prejudice to any other remedies under the Contract, be entitled to liquidated damages for every day or part thereof which elapses between the end of the period of implementation or extended period of implementation and the actual date of completion, at the rate and up to the maximum amount specified in the Contract agreement.

28. MODIFICATIONS

28.1. The Engineer may within his powers introduce any variations to the form, type or quality of the Works or any part thereof which he considers necessary and for that purpose or if for any other reasons it shall, in his opinion be desirable, he shall have power to order the Contractor to do and the Contractor shall do any of the following:

- (a) increase or decrease the quantity of any work under the Contract;
- (b) omit any such work;
- (c) change the character or quality or kind of any such work;
- (d) change the levels, lines, positions and dimensions of any part of the Works;
- (e) execute additional work of any kind necessary for the completion of the Works.

No such variation shall in any way vitiate or invalidate the Contract.

28.2. The Engineer shall, however, obtain the written approval of the Contracting Authority before giving any order for any variations which may result in an increase of the Contract Price or in an essential alteration of the quantity, quality or character of the Works.

28.3. No variations shall be made by the Contractor without an order in writing from the Engineer. Variations requiring the written approval of the Contracting Authority under article 28.2 shall be made by the Contractor only upon written order from the Engineer accompanied by a copy of the Contracting Authority's approval. Provided that, subject to the provisions of the Contract, no order in writing shall be required for any increase or decrease in the quantity of any work where such increase or decrease is not the result of an order given under this article but is the result of the quantities exceeding or being less than those stated in the Bill of Quantities.

28.4. The Engineer shall estimate to the Contracting Authority the amount to be added or deducted from the Contract Price in respect of any variation, addition or omission. The value of any variation, addition or omission shall be calculated on the basis of the unit prices contained in the Bill of Quantities or the Breakdown of Overall Price.

29. EXCEPTIONAL RISKS

29.1. If, during the execution of the Works, the Contractor encounters artificial obstructions or physical conditions which could not reasonably have been foreseen by an experienced Contractor, and if the Contractor is of the opinion that additional costs will be incurred and/or an extension of the period of implementation of the Contract will be necessary as a result of this, he shall notify the Engineer as soon as possible. The Contractor's notification shall specify the artificial obstructions and/or physical conditions, giving details of the expected effects thereof, the measures he is taking or intends to take and the extent of the expected delay in, or interference with, the execution of the Works.

29.2. On receipt of notification, the Engineer may inter alia give written instructions to the Contractor as to how the artificial obstructions or physical conditions are to be dealt with; and he may order that the Contract be modified, suspended or terminated.

29.3. In so far as he considers that some or all of the said artificial obstructions or physical conditions could not reasonably have been foreseen by an experienced Contractor, the Engineer shall:

- a) take into account any delay suffered by the Contractor as a result of such obstructions or conditions in determining any extension of the period of implementation to which the Contractor is entitled under these General Terms and Conditions; and/or
- b) calculate, in the event of artificial obstructions or physical conditions other than weather conditions, the additional payments due to the Contractor.

29.4. If the Engineer decides that some or all of the artificial obstructions or physical conditions could reasonably have been foreseen by an experienced Contractor, he shall so inform the Contractor as soon as practicable.

29.5. Weather conditions shall not entitle the Contractor to claim additional payments under Article 29. Where the Engineer judges that weather conditions that are normally foreseeable or specified in the Contract make the smooth execution of the Works difficult, he may decide to suspend such Works in accordance with article 30.

30. SUSPENSION

30.1. The Contractor shall, on the order of the Engineer, suspend the progress of the Works or any part thereof for such time or times and in such manner as the Engineer may consider necessary.

30.2. During the period of suspension, the Contractor shall take such protective measures as may be necessary to safeguard the Works, plant, equipment and Site against any deterioration, loss or damage.

30.3. Additional expenses incurred in connection with such protective measures shall be added to the Contract Price, unless such suspension is:

- b) necessary owing to some default of the Contractor; or
- c) necessary owing to normal weather conditions on Site; or
- d) necessary for the safety or the proper execution of the Works or any part thereof insofar as such necessity does not arise from any act or default by the Engineer or the Contracting Authority or from any of the exceptional risks referred to in Article 29.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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30.4. The Engineer, after consultation with the Contracting Authority and the Contractor, shall determine such extra payment and/or extension of the period of implementation to be made to the Contractor in respect of such claim as shall, in the opinion of the Engineer, be fair and reasonable.

30.5. If the period of suspension exceeds 180 days and the suspension is not due to the Contractor's default, the Contractor may, by notifying the Engineer and the Contracting Authority, either request permission to restart or terminate the Contract within 14 days.

31. INSPECTION AND TESTING

31.1. All materials and workmanship shall be of the respective kinds described in the Contract and in accordance with the Engineer's instructions and shall be subjected from time to time to such tests as the Engineer may direct at the place of manufacture or fabrication, or on the Site or at all or any of such places. The Contractor shall provide such assistance, instruments, machines, labour and materials as are normally required for examining, measuring and testing any work and the quality, weight or quantity of any materials used and shall supply samples of materials before incorporation in the Works for testing as may be selected and required by the Engineer. All testing equipment and instruments provided by the Contractor shall be used only by the Engineer or by the Contractor in accordance with the instructions of the Engineer.

31.2. All samples shall be supplied by the Contractor at his own cost.

31.3. The Contractor shall bear the costs of any of the following tests:

- a) Those clearly intended by or provided for in the Contract;
- b) Those involving load testing or tests to ensure that the design of the whole of the Works or any part of the Works is appropriate for the purpose which it was intended to fulfil.

31.4. Components and materials which are not of the specified quality shall be rejected. Rejected components and materials shall be removed by the Contractor from the Site within a period which the Engineer shall specify. Any Works incorporating rejected components or materials shall be rejected.

31.5. The Engineer shall, during the progress of the Works and before the issue by him of the Certificate of Substantial Completion, have the power to order or decide:

- a) the removal from the Site, by a deadline specified in the administrative order, of any components or materials which, in the opinion of the Engineer, are not in accordance with the Contract;
- b) the substitution of proper and suitable components or materials; or
- c) the demolition and proper re-execution, or satisfactory repair, notwithstanding any previous test thereof or interim payment therefor, of any Works which, in respect of components, materials, workmanship or design for which the Contractor is responsible, is not, in the opinion of the Engineer, in accordance with the Contract.

32. OWNERSHIP OF PLANT AND MATERIALS

32.1. All equipment, temporary Works, plant and materials provided by the Contractor shall, when brought on the Site, be deemed to be exclusively intended for the execution of the Works, and the Contractor may not remove the same or any part thereof, except for the purpose of moving it from one part of the Site to another, without the consent of the Engineer. Such consent shall not, however, be required for vehicles engaged in transporting any staff, labour, equipment, temporary Works, plant or materials to or from the Site.

32.2. All materials and equipment covered by payments made by the Contracting Authority to the Contractor shall thereupon become the sole property of the Contracting Authority, without limiting the Contractor's liability for their care.

32.3. Title to any equipment and supplies provided by the Contracting Authority shall rest with the Contracting authority.

32.4. Upon termination of the Contract, the equipment, Temporary Works, plant and materials on the Site shall be disposed of in accordance with article 55.4.

CONTRACT PRICE AND PAYMENTS

33. SUFFICIENCY OF PROPOSED PRICES

33.1. The Contractor shall be deemed to have inspected and examined the Site and its surroundings and to have satisfied himself as to the nature of the ground and the subsoil before submitting his proposal or tender. He shall also be deemed to have taken into account the form and nature of the Site, the extent and nature of the work and materials necessary for the completion of the Works, the means of communication with and access to the Site, the accommodation he may require and in general to have obtained for himself all necessary information as to the risks, contingencies and any other circumstances influencing or affecting his proposal or tender.

33.2. The Contractor shall be deemed to have satisfied himself before submitting his proposal or tender as to the correctness and sufficiency of the proposal or tender and of the rates and prices stated in the bill of quantities or breakdown of the overall price, which shall, save where otherwise provided in the Contract agreement, cover all his obligations under the Contract.

33.3. Since the Contractor is deemed to have determined his prices on the basis of his own calculations, operations and estimates, he shall, at no additional charge, carry out any work that is the subject of any item whatsoever in his proposal or tender for which he indicates neither a unit price nor a lump sum.

34. PRICE REVISION

Unless otherwise stipulated in the Contract agreement, no adjustment of the Contract Price shall be made in respect of fluctuations of market, prices of labour, materials, plant or equipment, neither due to fluctuation in interest rates nor devaluation or any other matters affecting the Works.

35. TAXATION

The Contractor shall be responsible for the payment of all charges and taxes arising from the execution of the Works and the Contracting Authority shall have no obligation or responsibility in connection with taxes or levies payable by the Contractor in its country of establishment or in the beneficiary country in connection with his performance of the Contract. The Contractor shall be deemed to have satisfied himself regarding the application of all relevant tax laws. However, the Contracting Authority shall provide the Contractor with reasonable assistance in case the Contractor is requested to obtain the benefit of tax exemptions.

36. CURRENCY OF PAYMENTS

Payments shall be made in the currency(ies) specified in the Contract agreement. Where currency conversion is necessary, in particular for reimbursable costs arising in one currency but reimbursable in another currency, the following rates shall apply (unless otherwise specified in the Contract agreement):

- a) for a conversion into Euro, the rate published on the Infor-Euro on the first working day of the month in which the payment is made;
- b) for a conversion into a national currency, the rate published by the central bank of the beneficiary country on the first working day of the month in which the payment is made.

37. CONDITIONS OF PAYMENT

37.1. Payments will be made by the Contracting Authority to the Contractor in accordance with these General Terms and Conditions. The Contract agreement shall specify the frequency and the instalments of payments, the payment dates, amounts and currencies, practical arrangements and specific requirements for presentation of payment requests if any.

37.2. Payments due by the Contracting Authority shall be made to the Contractor's bank account specified in the Contract agreement.

37.3. Sums due shall be paid within no more than 30 calendar days from the date of issue of an interim payment certificate by the Engineer in accordance with article 40, or of the issue of the final statement of account by the Engineer in accordance with article 41.

38. ADVANCE PAYMENT

38.1. The Contracting Authority shall make an advance payment to the Contractor of the amount, and by the dates, specified in the Contract agreement, against provision by the Contractor of a guarantee in accordance with article 23.2, if provided so in the Contract agreement.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

38.2. The Contractor shall 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 the advance payment has been used in this way by supplying copies of invoices or other documents to the Engineer. Should the Contractor misuse any portion of the advance payment, it shall become due and repayable immediately

38.3. Unless otherwise provided in the Contract agreement, the advance payment shall be repaid by way of reduction of proportionate amounts from interim payments. The amount of reduction in each interim payment shall be calculated in accordance with the method specified in the Contract agreement.

39. MEASUREMENT

The following principles shall apply to the measurement of the Works:

39.1. For a global price contract, the amount due under the Contract shall be determined on the basis of the breakdown of the overall price, or on the basis of a breakdown expressed as a percentage of the Contract Price corresponding to completed stages of the Works. Where items are accompanied by quantities, these shall be firm quantities for which the Contractor has submitted a global price and shall be paid for irrespective of the quantities of Works actually carried out.

39.2. For a unit-price Contract:

- a) the amount due under the Contract shall be calculated by applying the unit rates to the quantities actually executed for the respective items, in accordance with the Contract;
- b) the quantities set out in the Bill of Quantities shall be the estimated quantities of the Works, which shall not be taken as the actual and correct quantities of the Works to be executed by the Contractor in fulfilment of his obligations under the Contract;
- c) the Engineer shall determine by measurement the actual quantities of the Works executed by the Contractor, and these shall be paid for in accordance with the provisions of article 40, Interim Payments. Save where otherwise provided in the Contract agreement, no additions may be made to the items in the Bill of Quantities, save as a result of a variation in accordance with Article 28 or another provision of the Contract entitling the Contractor to additional payment;
- d) the Engineer must, when he requires any parts of the Works to be measured, give the Contractor reasonable notice to attend or send a qualified agent to represent him. The Contractor or his agent shall assist the Engineer in making such measurements and shall furnish all particulars required by the Engineer. Should the Contractor fail to attend or to send an agent, the measurement made or approved by the Engineer shall be binding on the Contractor;
- e) the Works shall be measured net, notwithstanding any general or local custom, save where otherwise provided for in the Contract.

40. INTERIM PAYMENTS

40.1. At the end of each period specified in the Contract agreement, the Contractor shall submit an application for interim payment to the Engineer in a form approved by the Engineer. The application shall as a minimum include the following items, as applicable:

- a) the estimated Contract value of the permanent Works executed up to the end of the period in question;
- b) an amount to be deducted for the repayment of advance payment under Article 38.

40.2. Within 30 days of receiving an application for interim payment, it shall be approved or amended in such a way that it reflects, in the Engineer's opinion, the amount due to the Contractor under the Contract. In cases where there is a difference of opinion as to the value of an item, the Engineer's view shall prevail. After calculating the amount due to the Contractor the Engineer shall send the Contracting Authority and the Contractor an interim payment certificate for the amount due to the Contractor and shall inform the Contractor of the Works for which payment is being made.

40.3. The Engineer may, by an interim payment certificate, make any corrections or modifications to any previous certificate issued by him and shall have power to modify the valuation in, or withhold the issue of, any interim payment certificate if the Works or any parts thereof are not being carried out to his satisfaction.

41. FINAL STATEMENT OF ACCOUNT

41.1. Not later than 45 days after the issue of the Certificate of Final Completion in accordance with article 51, the Contractor shall submit to the Engineer a draft final statement of account with supporting documents showing in detail the value of the work done in accordance with the Contract, together with all further sums which the Contractor considers to be due to him under the Contract in order to enable the Engineer to prepare the final statement of account.

41.2. Within 45 days of receiving the draft final statement of account and of all information reasonably required for its verification, the Engineer shall prepare the final statement of account, which determines:

- a) the amount which, in his opinion, is finally due under the Contract;
- b) after establishing the amounts previously paid by the Contracting Authority and all sums to which the Contracting Authority is entitled under the Contract, the balance, if any, due, from the Contracting Authority to the Contractor, or from the Contractor to the Contracting Authority, as the case may be.

41.3. The Engineer shall issue the Contracting Authority and the Contractor, with the final statement of account showing the final amount to which the Contractor is entitled under the Contract. The Contracting Authority and the Contractor shall sign the final statement of account as an acknowledgement of the full and final value of the work performed under the Contract and shall promptly submit a signed copy to the Engineer.

41.4. The final statement of account signed by the Contractor shall constitute a written discharge of the Contracting Authority confirming that the total in the final statement of account represents full and final settlement of all monies due to the Contractor under the Contract. However, such discharge shall become effective only after any payment due to the Contractor under the final statement of account has been made.

42. REPAYMENT BY CONTRACTOR

42.1. The Contractor undertakes to repay any amounts paid in excess of the final amount due to the Contracting Authority within 30 days of receiving a request to do so. Should the Contractor fail to make repayment within this time period, the Contracting Authority may, within two months of late payment, claim late-payment interests from the Contractor calculated in the same conditions as in article 43.

42.2. Amounts to be repaid to the Contracting Authority may be offset against amounts of any kind due to the Contractor.

43. DELAYED PAYMENTS

43.1. If the Contracting Authority fails to make payments within the periods specified in **article 37.3**, the Contractor may, within two months of late payment, claim late-payment interest:

- at the rediscount rate applied by the issuing institution of the country of the Contracting Authority where payments are in national currency;
- at the rate applied by the European Central Bank to its main refinancing transactions in Euro, as published in the Official Journal of the European Union, where payments are in Euro, on the first day of the month in which the deadline expired, plus three and a half percentage points. The late-payment interest shall apply to the time which elapses between the date of the payment deadline (exclusive) and the date on which the Contracting Authority's account is debited (inclusive).

43.2. Any default in payment of more than 90 days from the expiry of the period laid down in Article 37.3 shall entitle the Contractor either not to perform the Contract or to terminate it, with 30 days' prior notice to the Contracting Authority and the Engineer.

COMPLETION OF WORKS

44. TESTS AND VERIFICATION OPERATIONS

The Works shall not be declared substantially completed until the verifications and tests on completion prescribed in the Contract have been carried out in accordance with article 31 at the expense of the Contractor. The Contractor shall notify the Engineer of the date on which such verification and tests may commence.

45. CERTIFICATE OF SUBSTANTIAL COMPLETION

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

45.1. When the whole of the Works have been substantially completed and have satisfactorily passed any verification and test on completion prescribed by the Contract, the Contractor may give a notice to that effect to the Engineer accompanied by an undertaking to finish any outstanding work during the Defects Liability Period. Such notice and undertaking shall be in writing and shall be deemed to be a request by the Contractor, for the Engineer to issue a Certificate of Substantial Completion in respect of the Works. The Engineer shall, within 21 days of the date of delivery of such notice either issue to the Contractor, with a copy to the Contracting Authority, a Certificate of Substantial Completion stating the date on which, in his opinion, the Works were substantially completed in accordance with the Contract or give instructions in writing to the Contractor specifying all the work which, in the Engineer's opinion, requires to be done by the Contractor before the issuance of such Certificate. The Engineer shall also notify the Contractor of any defects in the Works affecting substantial completion that may appear after such instructions and before completion of the work specified therein. The Contractor shall be entitled to receive such Certificate of Substantial Completion within 21 days of completion, to the satisfaction of the Engineer, of the work so specified and making good any defect so notified. Upon issuance of the Certificate of Substantial Completion of the Works, the Contractor shall be deemed to have undertaken to complete with due expedition any outstanding work during the Defects Liability Period.

46. SUBSTANTIAL COMPLETION OF SECTIONS OR PARTS OF THE WORKS

In accordance with the procedure in article 45 and on the same conditions as provided therein, the Contractor may request the Engineer to issue, and the Engineer may issue, a Certificate of Substantial Completion in respect of any Section or part of the Works which has been substantially completed and has satisfactorily passed any tests on completion prescribed by the Contract, if:

- a) a separate time for completion is provided in the Contract in respect of such Section or part of the Works;
- b) such Section or part of the Works has been completed to the satisfaction of the Engineer and is required by the Contracting Authority for his occupation or use.

47. DEFECTS LIABILITY PERIOD

The expression "Defects Liability Period" shall mean the period of 365 days (or any other period specified in the Contract Agreement), calculated from the date of completion of the Works stated in the Certificate of Substantial Completion issued by the Engineer or, in respect of any Section or part of the Works for which a separate Certificate of Substantial Completion has been issued, from the date of completion of that Section or part as stated in the relevant Certificate. The expression "the Works" shall, in respect of the Defects Liability Period, be construed accordingly.

48. COMPLETION OF OUTSTANDING WORK AND REMEDYING OF DEFECTS

During the Defects Liability Period, the Contractor shall finish the work, if any, outstanding at the date of the Certificate of Substantial Completion, and shall execute all such work of repair, amendment, reconstruction, rectification and making good defects, imperfections, shrinkages or other faults as may be required of the Contractor in writing by the Engineer during the Defects Liability Period and within 14 days after its expiration, as a result of an inspection made by or on behalf of the Engineer prior to expiration of the Defects Liability Period.

49. COST OF EXECUTION OF WORK OF REPAIR

All such outstanding work shall be carried out by the Contractor at his own expense if the necessity thereof shall, in the opinion of the Engineer, be due to the use of material or workmanship not in accordance with the Contract, or to neglect or failure on the part of the Contractor to comply with any obligation expressed or implied, on the Contractor's part under the Contract.

50. REMEDY ON CONTRACTOR'S FAILURE TO CARRY OUT WORK REQUIRED

If the Contractor shall fail to do any such work outstanding on the Works, the Contracting Authority shall be entitled to employ and pay other persons to carry out the same, and all expenses consequent thereon or incidental thereto shall be recoverable from the Contractor by the Contracting Authority, and may be deducted by the Contracting Authority from any sums due or which may become due to the Contractor or from guarantees held against the Contractor.

51. CERTIFICATE OF FINAL COMPLETION

Upon satisfactory completion of the work outstanding on the Works, the Engineer shall within 30 days of the expiration of the Defects Liability Period issue a Certificate of Final Completion to the Contractor. The Contract shall be deemed to be completed upon issuance of such Certificate, provided that the provisions of the Contract which remain unperformed and the settlement of disputes provision in the Contract shall remain in force for as long as is necessary to dispose of any outstanding matters or issues between the parties.

BREACH OF CONTRACT AND TERMINATION

52. BREACH OF CONTRACT

52.1. A Party shall be in a breach of Contract if it fails to discharge any of its obligations under the Contract. Where a breach of Contract occurs, the injured Party shall be entitled to damages and/or termination of the Contract.

52.2. Where a breach of Contract is attributable to the Contractor, the Contracting Authority shall also be entitled to the following remedies as of right:

- a) implementation of all or part of the Works using directly-employed labour;
- b) termination of all or part of the Contract;
- c) conclusion of a contract with a third party replacing the Contractor, after prior termination of the original Contract.

52.3. In addition to the above-mentioned measures, the Contracting Authority may claim the application of article 27 and the award of liquidated damages, as well as the award of general damages.

52.4. In the event of the Works being executed by directly employed labour or by a Contract with a third party replacing the Contractor, provisions of article 55.5 shall apply.

52.5. Recovery of damages, disbursements or expenses resulting from the application of measures provided for in this Article shall be effected by deduction from the sums due to the Contractor, from the deposit, or by payment under the guarantee.

53. TERMINATION BY THE CONTRACTING AUTHORITY

The Contracting Authority may, after giving the Contractor 7 days' notice, terminate the Contract in any of the following cases:

- a) the Contractor is in breach of his obligations under the Contract;
- b) the Contractor fails to comply within a reasonable time with a notice given by the Engineer requiring him to make good any neglect or failure to perform his obligations under the Contract;
- c) the Contractor refuses or neglects to carry out administrative orders given by the Engineer;
- d) the Contractor takes some action without requesting or obtaining the authorisation of the Contracting Authority or the Engineer, when such prior authorisation is required under the Contract;
- e) the Contractor's declarations and warranties in respect of his eligibility (article 61) and/or in respect of article 57, 58 and article 59, appear to have been untrue, or cease to be true;
- f) any organisational modification occurs involving a change in the legal personality, nature or control of the Contractor (or the members of the joint venture or consortium), unless such modification is recorded in an addendum to the Contract;
- g) any other legal disability of the Contractor hindering execution of the Contract occurs;
- h) the Contractor fails to provide the required guarantee or insurance, or if the person providing the earlier guarantee or insurance required under the present Contract is not able to abide by his commitments;
- i) for convenience, if this is in the interest of the Contracting Authority.

54. TERMINATION BY THE CONTRACTOR

The Contractor may, after giving 14 days' notice to the Contracting Authority, terminate the Contract in any of the following cases:

- a) in the circumstances specified in article 43.2; or
- b) if the Contracting Authority is in material breach of his obligations under the Contract and has not taken any actions to remedy the same within 30 days following the receipt by the Contracting Authority of the Contractor's notice specifying such breach; or
- c) if the Contracting Authority suspends the progress of the Works or any part thereof for more than 180 days, for reasons not specified in the Contract or not attributable to the Contractor.

55. RIGHTS AND OBLIGATIONS UPON TERMINATION

55.1. Termination shall be without prejudice to any other rights or powers of the Contracting Authority and the Contractor under the Contract.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

55.2. The Engineer shall, upon the issue of the notice of termination of the Contract, instruct the Contractor to take immediate steps to bring the Works to a close in a prompt and orderly manner and to reduce expenditure to a minimum. The Contractor shall make the Site safe and secure, and leave the Site as soon as reasonably possible.

55.3. The Engineer shall, as soon as possible after termination, take the following actions:

- a) certify the value of the Works and all sums due to the Contractor at the date of termination;
- b) draw a report on work performed by the Contractor after inspection of the Works, and inventory taken of temporary structures, materials, plant and equipment. The Contractor shall be summoned to the inspection and the taking of the inventory.

55.4. The Contracting Authority shall have the option of acquiring in whole or in part temporary Works and structures which have been approved by the Engineer, plant, equipment and materials specifically supplied or manufactured in connection with the execution of Works under the Contract. The purchase price of such Temporary Works, structures, equipment, plant and materials shall not exceed the unpaid portion of the expenditure incurred by the Contractor, such expenditure being limited to that required for the implementation of the Contract under normal conditions. The Contracting Authority may purchase, at market prices, the materials and items supplied or ordered by the Contractor and not already paid for by the Contracting Authority on such conditions as the Engineer considers appropriate.

55.5. The Contracting Authority may upon termination of the Contract, complete the Works itself by using directly-employed labour or conclude another contract with a third party replacing the Contractor. Additional expenditure resulting from the use of directly employed labour or of a contract with a third party replacing the Contractor shall be borne by the Contractor in the cases of termination by the Contracting Authority under article 53 (a) to (h).

55.6. If the Contracting Authority terminates the Contract under article 53 (a) to (h), it shall be entitled to recover from the Contractor any loss it has suffered up to the maximum amount stated in the Contract. If no maximum amount is stated, the Contracting Authority shall not be entitled to recover more than the part of the Contract price corresponding to the value of that part of the Works which cannot, by reason of the Contractor's failure, be put to their intended use.

55.7. In case of termination under article 52(i) and 53, the Contractor shall be entitled to claim, in addition to sums owing to him for Works already satisfactorily completed, and for sums owing to him under article 55.4, the reimbursement of any reasonable cost incident to the prompt and orderly termination of the Contract and substantiated costs resulting from commitments entered into prior to the date of termination. The Contractor shall not be entitled to receive any other payment or damages.

56. FORCE MAJEURE

56.1. Neither party shall be considered to be in breach of its obligations under the Contract if the performance of such obligations is prevented by any circumstances of force majeure which arise after the date of signature of the Contract by both parties.

56.2. The term "force majeure", as used herein shall mean acts of God, strikes, lock-outs or other industrial disturbances, acts of the public enemy, wars, whether declared or not, blockades, insurrection, riots, epidemics, landslides, earthquakes, storms, lightning, floods, washouts, civil disturbances, explosions, and any other similar unforeseeable events, beyond the control of either party and which by the exercise of due diligence neither party is able to overcome.

A party affected by an event of force majeure shall take all reasonable measures to remove such party's inability to fulfil its obligations hereunder with a minimum of delay.

56.3. If either party considers that any circumstances of force majeure have occurred which may affect performance of its obligations it shall notify the other party immediately giving details of the nature, the probable duration and likely effect of the circumstances. Unless otherwise directed by the Engineer in writing, the Contractor shall continue to perform his obligations under the Contract as far as is reasonably practicable, and shall employ every reasonable alternative means to perform any obligations that the event of force majeure does not prevent him from performing. The Contractor shall not employ such alternative means unless directed to do so by the Engineer.

56.4. If the Contractor incurs additional costs in complying with the Engineer's directions or using alternative means under Article 56.3, the amount thereof shall be certified by the Engineer.

56.5. If circumstances of force majeure have occurred and continue for a period of 180 days then, notwithstanding any extension of time for completion of the Works that the Contractor may by reason thereof have been granted, either party shall be entitled to serve the other with 30 days' notice to terminate the Contract. If, on the expiry of the period of 30 days, the situation of force majeure still applies, the Contract shall be terminated and, by virtue of the law governing the Contract, the parties shall be released from further execution of the Contract.

57. CHILD LABOUR AND FORCED LABOUR

The Contractor (and each member of a joint venture or consortium) warrants that it and its affiliates comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex – and that it or its affiliates has not made or will not make use of forced or compulsory labour as described in the *Forced labour Convention* and in *the Abolition of Forced Labour Convention 105* of the International Labour Organization. Furthermore the Contractor warrants that it, and its affiliates, respect and uphold basic social rights and working conditions for its employees. Any breach of this representation and warranty, in the past or during the performance of the Contract, shall entitle the Contracting Authority to terminate this Contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

58. MINES

The Contractor (and each member of a joint venture or consortium) warrants that it and its affiliates is not engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs. Any breach of this representation and warranty shall entitle the Contracting Authority to terminate this Contract immediately upon notice to the Contractor, at no cost or liability for the Contracting Authority.

59. ANTI-MONEY LAUNDERING AND COMBATING THE FINANCING OF TERRORISM

59.1. The Contractor/s and any sub-Contractor/s certifies/certify none of the funds provided under this contract are used directly or indirectly to assist in, sponsor, or provide support for acts of terrorism or to support organizations or persons listed as terrorists on lists maintained by the United States government, the United Nations, the European Union, and other entities.

59.2. The Contractor/s and any sub-Contractor/s authorize the verification of their company identity, whether through third parties or official government databases or by any other means considered by the Contracting Authority as appropriate for the compliance of its duties with anti-money laundering and combating the financing of terrorism (AML/CFT) policies and any requirements imposed by applicable laws.

59.3. Natural persons authorize the verification by submitting an informed consent form as requested by the Contracting Authority.

60. CODE OF CONDUCT

By signing the Contract the Contractor commits to ensure compliance of the FCA Code of Conduct for Contractors in all its operations under this Contract. Contractor shall ensure that all its' staff ar aware of, read and follow the Code, understand what it means in concrete behavioural terms and understand that the violation of the Code lead to Disciplinary actions.

The Parties shall report to each other any substantial suspicions of breaches of violations of the Code by Contractor with no delay. Suspicions and concerns are to be addressed fairly, appropriately, and in a timely manner. The Contractor commits to cooperate with an investigation of a possible violation of the Code, if needed, agreeing that FCA has a leading role related to such investigations.

The Contractor shall ensure that any staff member having violated the Code will be subject to appropriate disciplinary measures. If there is sufficient evidence of non-compliance, and no appropriate disciplinary measures are taken regardless of FCA's recommendation, FCA has a right to terminate the Contract.

By signing this Contract the Contractor certifies having received, read and fully understood the Code.

Tender Reference no. FCA/SSUC0012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

The Contracting Authority reserves the right to transfer and assign to any of its partners, or other beneficiary, any right and any obligation the Contracting Authority has against the Contractor under the Contract.

61. INELIGIBILITY

By signing the Contract Agreement, the Contractor (or, if a joint venture or consortium, any member thereof) certifies that he and/or his affiliates are not in one of the situations listed below:

- (a) They are bankrupt or being wound up, are having their affairs administrated by courts, have entered into an agreement with creditors, have suspended business activities, are the subject of proceedings concerning house matters, or are in any analogous situation arising from a similar procedure provided for in national legislation or regulations;
- (b) They have been convicted of an offence concerning their professional conduct by a judgement that has the force of *res judicata*;
- (c) They have been guilty of grave professional misconduct proven by any means that the Contracting Authority can justify;
- (d) They have not fulfilled obligations relating to the payment of social security contributions or payment of taxes in accordance with the legal provisions of the country in which they are established or with those of the country of the Contracting Authority or those of the country where the Contract is to be performed;
- (e) They have been the subject of a judgement that has the force of *res judicata* for fraud, corruption, involvement in a criminal organisation or any other illegal activity;
- (f) Following another procurement procedure or grant award procedure financed by the European Community budget or another donor, or following another procurement procedure carried out by the Contracting Authority or one of its partners, they have been declared to be in serious breach of Contract for failure to comply with their Contractual obligations.

62. CHECKS AND AUDITS

For the purpose of checks and audit the Contractor shall permit the Contracting Authority and the Engineer to inspect, at any time, the records including financial and accounting documents and to make copies thereof and shall permit the Contracting authority, the Engineer, or any person authorized by them, including the European Commission, the European Anti-Fraud Office and the Court of Auditors in case the Contract is financed by the European Community budget, at any time, to audit such records and accounts both during and after the execution of the Works. These inspections may take place up to 7 years after the final payment. The Contracting Authority and the Engineer may carry out whatever documentary or on-the-spot checks it deems necessary to find evidence in case of suspected unusual commercial expenses.

If the purchase is financed by backdonor funds, and FCA has agreed with the backdonor about conducting tests on FCA's suppliers, the Supplier shall allow the backdonor to conduct tests on them according to the terms and conditions of the grant agreement.

63. SETTLEMENT OF DISPUTES

63.1. The parties shall make every effort to settle amicably any dispute, which may arise between them. Once a dispute has arisen, the parties shall notify each other in writing of their positions on the dispute and any solution, which they consider possible. If either party deems it useful, the Parties shall meet and try and settle the dispute. A party shall respond to a request for amicable settlement within 30 days of such a request. The maximum period laid down for reaching such a settlement shall be 120 days from the commencement of the procedure. Should the attempt to reach an amicable settlement fail or a party fail to respond in time to requests for a settlement, either party shall be free to proceed to the next stage of the dispute-settlement procedure by notifying the other.

63.2. If no settlement is reached within 120 days of the start of the amicable dispute-settlement procedure, each party may seek:

- a) either a ruling from a national court
- b) or an arbitration ruling

in accordance with the Contract agreement .

64. ASSIGNMENT OF RIGHTS AND OBLIGATIONS BY THE CONTRACTING AUTHORITY

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
--------------------------------------------------	----------------------------

Annex 2: Tender submission form

Submitted by (the name of the tendering company):	
<i>Contact Person:</i>	

PRICE SCHEDULE (Price and currency to be inserted by tenderer)

Lot #	Description of Works & supplies	Qty	Currency:	
			Unit Price	Total Price
1	Renovation works at Mundri Vocational Training Centre, Episcopal Diocese, Western Equatoria State, South Sudan	1 School		
Total price to be used as an evaluation price by FCA				

Tenderer information	
Tenderer legal name:	
Street name and no.	
City	
Postal code	
Country of registration:	
Phone no.:	
Fax. no.:	
E-mail:	
web-site:	
Sales Manager (name)	
Director (Name)	
Other contact (Title & Name)	

General tenderer information	
Nature of business – please enclose complete product information in English.	
Year of Establishment	
Number of full-time employees	
Licensing Authority	
Licence number (VAT no./TAX I.D.)	
Does your company have a written statement of its environmental policy?	
Please state in which languages technical documents are available:	
Working language:	

Subsidiaries, Associates and/or Overseas Representative of the tenderer	
Countries with registered office:	
Countries with representation (agent):	
List of International quality assurance certification held by your company:	
List of local and national quality assurance certification held by your company	

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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International trade / professional organisations of which your company is a member:	
Local trade / professional organisations of which your company is a member:	

After having read your letter of Invitation to Tender no. **FCA/SSUCO012/2024** for provision of construction works in Mundri West, Western Equatoria State dated 15/11/2024 on behalf of my company/business, we hereby;

- Accept, without restrictions, all the provisions in the Invitation to Tender including General terms and Conditions for Supply contracts –with annexes.
- Provided that a contract is issued by the Contracting Authority we hereby commit to execute the works at the price offered and deliver and provide the same to the designated points within the delivery time stated above.
- We hereby certify and attest that we meet the eligibility criteria of article stated in the Instructions to Tenderers.
- We hereby certify and attest that none of the below listed exclusion grounds are applicable:
 - a. participation in a criminal organisation, as defined in Article 2 of Council Framework Decision 2008/841/JHA (1);
 - b. corruption, as defined in Article 3 of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union (2) and Article 2 (1) of Council Framework Decision 2003/568/JHA (3) as well as corruption as defined in the national law of the contracting authority or the economic operator;
 - c. fraud within the meaning of Article 1 of the Convention on the protection of the European Communities' financial interests (4);
 - d. terrorist offences or offences linked to terrorist activities, as defined in Articles 1 and 3 of Council Framework Decision 2002/475/JHA (5) respectively, or inciting or aiding or abetting or attempting to commit an offence, as referred to in Article 4 of that Framework Decision;
 - e. money laundering or terrorist financing, as defined in Article 1 of Directive 2005/60/EC of the European Parliament and of the Council (6);
 - f. child labour and other forms of trafficking in human beings as defined in Article 2 of Directive 2011/36/EU of the European Parliament and of the Council
 - g. the tenderer is in breach of its obligations relating to the payment of taxes or social security contributions and where this has been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of the contracting authority.
- We further certify and attest that we, and/or our affiliates,
 - comply with the UN *Convention on the Rights of the Child* - UNGA Doc A/RES/44/25 (12 December 1989) with Annex
 - have not made or will not make use of forced or compulsory labor as described in the *Forced Labor Convention* and in *the Abolition of Forced Labor Convention 105* of the International Labor Organization.
 - respect and uphold basic social rights and working conditions for our employees.
 - are not engaged in any development, sale or manufacture of anti-personnel mines and/or cluster bombs or components utilized in the manufacture of anti-personnel mines and/or cluster bombs.
 - comply with articles 13. Child Labour and Forced Labour, 14. Mines, 15. "Anti-money laundering and combating the financing of terrorism" and 17. Corrupt Practices of the General Terms and Conditions for Supply Contracts.

The above declarations will become an integrated part of the contract and misrepresentation will be regarded as grounds for termination.

- Our company/business has the following **nationality** [**insert**], as evidenced in the enclosed Company Registration Certificate.

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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- We certify that the goods have the **origin** stated above.
- In the event the contract is awarded to us, we request that payments under the contract be made to the following **account**: [insert all necessary references].
- Our tender is valid for a period of **<insert no>** days after the closing date in accordance with instructions to tenders.

Signature & stamp:

Signed by:

The Tenderer :
 Name of the company :
 Address :
 Telephone no. :
 Fax no. :
 E-mail: :
 Name of contact person :
 Date: :

NB. Attachments – Please check carefully before submitting your tender that you have prepared all the documents required in the instructions to Tenders article “Documents comprising the tender”

Tender Reference no. FCA/SSUCO012/2024	Date: 15/11/2024
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