



**Islamic Republic of Afghanistan
Ministry of Communication & Information Technology (MOCIT)
Afghan Telecom Corporation**

International Competitive Bidding (ICB)

NON-CONSULTING SERVICES BIDDING DOCUMENTS

For

**Provision of 22.5 Gig Internet Services
for Afghan Telecom Corporation**

Lump Sum Contract

Address of The Procuring Entity: Ministry of Communication & Information Technology, Afghan Telecom Corporation Main Office, Post and Parcel Building, 4th Floor, Mohammad Jan Khan Watt, Kabul, Afghanistan

Reference No: NPA/MoCIT/97/NCS-2313 /ICB

Budget No: Afghan Telecom Corporation' Budget

Issued On: 05/December/2018

SBD FOR PROCUREMENT OF NON-CONSULTING SERVICES

SUMMARY

PART 1 – BIDDING PROCEDURES

SECTION 1 INSTRUCTION TO BIDDERS (ITB)

This Section provides relevant information to help Bidders prepare their bids. Information is also provided on the submission, opening, and evaluation of bids and on the award of Contracts. **Section 1 contains provisions that are to be used without modification.**

SECTION 2 BIDDING DATA SHEET (BDS)

This Section consists of provisions that are specific to each procurement and that supplement the information or requirements included in Section 1, Instructions to Bidders.

SECTION 3 BIDDING FORMS

This Section contains the forms which are to be completed by the Bidder and submitted as part of his Bid.

SECTION 4 ELIGIBLE COUNTRIES

This Section contains information regarding eligible countries.

PART 2 – ACTIVITY SCHEDULE

SECTION 5 SCHEDULE OF REQUIREMENTS

This Section contains the activity schedule.

PART 3 – CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION 6 GENERAL CONDITIONS OF CONTRACT (GCC)

This Section contains the general clauses to be applied in all contracts. **The text of the clauses in this Section shall not be modified.**

SECTION 7 SPECIAL CONDITIONS OF CONTRACT (SCC)

The contents of this Section supplement the General Conditions of Contract and shall be prepared by the Employer.

SECTION 8 PERFORMANCE SPECIFICATIONS AND DRAWINGS

This section contains Specifications that are intended only as information for the Employer or the person drafting the bidding documents. **They should not be included in the final documents.**

SECTION 9 CONTRACT FORMS

This Section contains forms which, once completed, will form part of the Contract. The forms for **Performance Security** and **Advance Payment Security**, when required, shall only be completed by the successful Bidder after contract award.

ACRONYMS

BDS	Bidding Data Sheet
BRT	Business Receipt Tax
GCC	General Conditions of Contract
GoA	Government of Afghanistan
ITB	Instruction to Bidders
JV	Joint Venture
MOF	Ministry of Finance
NOT	National Open Tender
PPU	Procurement Policy Unit
SCC	Special Conditions of Contract
SBD	Standard Bidding Documents
TIN	Tax Identification Number
TS	Technical Specifications

PART I
BIDDING PROCEDURES

SECTION 1	INSTRUCTION TO BIDDERS (ITB)
SECTION 2	BIDDING DATA SHEET (BDS)
SECTION 3	BIDDING FORMS
SECTION 4	ELIGIBLE COUNTRIES

SECTION 1 INSTRUCTION TO BIDDERS

A. GENERAL	
1. Scope of the Bid	1.1 The Employer, as defined in the Bidding Data Sheet (BDS) , invites bids for the Services, as described in the Appendix A to the Contract. The name and identification number of the Contract is provided in the BDS .
	1.2 The successful Bidder will be expected to complete the performance of the Services by the Intended Completion Date provided in the BDS .
2. Source of Funds	2.1 The Employer guarantees that adequate public funds have been budgeted and allotted and are also available for managing the procurement proceedings toward the cost of the project as specified in the BDS . The Purchaser intends to apply a portion of the public funds as identified in the BDS , to eligible payments under the contract for which this Bidding Documents are issued.
	2.2 For the purpose of this provision, “PUBLIC FUNDS” defines any monetary resources appropriated to procuring entities under Government budget, or revenues generated by statutory bodies and corporations or aid grants and credits put at the disposal of procuring entities by the development partners through the Government.
3. Eligible Bidders	3.1 This Invitation for Bids is open to all bidders from eligible countries. Any materials, equipment, and Services to be used in the performance of the Contract shall have their origin in eligible source countries.
	3.2 All bidders shall provide in Section 3, Bidding Forms, a statement that the Bidder (including all members of a joint venture and subcontractors) is not associated, nor has been associated in the past, directly or indirectly, with the consultant or any other entity that has prepared the design, specifications, and other documents for the Project or being proposed as Project Manager for the Contract. A firm that has been engaged by the Procuring Entity to provide Consultant Services for the preparation or supervision of the Services, and any of its affiliates, shall not be eligible to bid.
	3.3 Government-owned enterprises in the Islamic Republic of Afghanistan may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Employer.

	<p>3.4 It is strictly prohibited to make any withdrawal from the project budget for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the GoA, is prohibited by a decision of the United Nations Security Council, taken under Chapter VII of the Charter of the United Nations.</p>
	<p>3.5 Bidders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Islamic Republic of Afghanistan in accordance with ITB Sub-Clause 37.1</p>
<p>4. Qualification of the Bidder</p>	<p>4.1 All bidders shall provide in Section 3, Bidding Forms, a preliminary description of the proposed work method and schedule, including drawings and charts, as necessary.</p>
	<p>4.2 All bidders shall include the following information and documents with their bids in Section 3, unless otherwise stated in the BDS:</p> <ul style="list-style-type: none"> (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business; written power of attorney of the signatory of the Bid to commit the Bidder; (b) total monetary value of Services performed for any of the last five (5) years; (c) experience in Services of a similar nature and size for any of the last five (5) years, and details of Services under way or contractually committed; and names and address of clients who may be contacted for further information on those contracts; (d) list of major items of equipment proposed to carry out the Contract; (e) qualifications and experience of key site management and technical personnel proposed for the Contract; (f) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past five (5) years; (g) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources); (h) authority to the Employer to seek references from the Bidder's

	<p>bankers;</p> <ul style="list-style-type: none"> (i) information regarding any litigation, current or during the last five (5) years, in which the Bidder is involved, the parties concerned, and disputed amount; and (j) Proposals for subcontracting components of the Services amounting to more than ten (10) percent of the Contract Price.
	<p>4.3 Bids submitted by a joint venture of two (2) or more firms as partners shall comply with the following requirements, unless otherwise stated in the BDS:</p> <ul style="list-style-type: none"> (a) the Bid shall include all the information listed in ITB Sub-Clause 4.2 above for each joint venture partner; (b) the Bid shall be signed so as to be legally binding on all partners; (c) the Bid shall include a copy of the contract entered into by the joint venture partners defining the division of assignments to each partner and establishing that all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; (d) one (1) of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and (e) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
	<p>4.4 To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:</p> <ul style="list-style-type: none"> (a) annual volume of Services of at least the amount specified in the BDS; (b) experience as prime contractor in the provision of at least two (2) service contracts of a nature and complexity equivalent to the Services over the last five (5) years (to comply with this requirement, Services contracts cited should be at least seventy (70) percent complete) as specified in the BDS; (c) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in the BDS; (d) Contract Manager with five (5) years' experience in Services

	<p>of an equivalent nature and volume, including no less than three years as Manager; and</p> <p>(e) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount specified in the BDS.</p> <p>A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.</p> <p>4.5 The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub-Clause 4.4(a), (b) and (e); however, for a joint venture to qualify the partner in charge must meet at least forty (40) percent of those minimum criteria for an individual Bidder and other partners at least twenty-five (25) percent of the criteria. Failure to comply with this requirement will result in rejection of the joint venture's Bid. Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria, unless otherwise stated in the BDS.</p>
<p>5. One Bid per Bidder</p>	<p>5.1 Each Bidder shall submit only one (1) Bid, either individually or as a partner in a joint venture. A Bidder who submits more than one (1) Bid (other than as a subcontractor or in cases of alternatives that have been permitted or requested) will cause all the proposals with the Bidder's participation to be disqualified.</p>
<p>6. Cost of bidding</p>	<p>6.1 The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs.</p>
<p>7. Site Visit</p>	<p>7.1 The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of required Services and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for the Services. The costs of visiting the Site shall be at the Bidder's own expense.</p>
<p>B. BIDDING DOCUMENTS</p>	
<p>8. Content of Bidding Documents</p>	<p>8.1 The set of bidding documents comprises the documents listed in the table below and addenda issued in accordance with ITB Clause 10:</p> <p>Section 1 Instructions to Bidders</p>

	<p>Section 2 Bidding Data Sheet</p> <p>Section 3 Bidding Forms</p> <p>Section 4 Eligible Countries</p> <p>Section 5 Activity Schedule</p> <p>Section 6 General Conditions of Contract</p> <p>Section 7 Special Conditions of Contract</p> <p>Section 8 Performance Specifications and Drawings (if applicable)</p> <p>Section 9 Contract Forms</p>
	<p>8.2 The Bidder is expected to examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all information required by the bidding documents or to submit a bid not substantially responsive to the bidding documents in every respect will be at the Bidder’s risk and may result in the rejection of its bid. Sections 3, 5, and 9 should be completed and returned with the Bid in the number of copies specified in the BDS.</p>
9. Clarification of Bidding Documents	<p>9.1 A prospective Bidder requiring any clarification of the bidding documents may notify the Employer in writing or by email at the Employer’s address indicated in the invitation to bid. The Employer will respond to any request for clarification received earlier than Seven (7) days prior to the deadline for submission of bids. Copies of the Employer’s response will be forwarded to all purchasers of the bidding documents, including a description of the inquiry, but without identifying its source.</p>
10. Amendment of Bidding Documents	<p>10.1 Before the deadline for submission of bids, the Employer may modify the bidding documents by issuing addenda.</p> <p>10.2 Any addendum thus issued shall be part of the bidding documents and shall be communicated in writing or by email to all purchasers of the bidding documents. Prospective bidders shall acknowledge receipt of each addendum by email to the Employer.</p> <p>10.3 To give prospective bidders reasonable time in which to take an addendum into account in preparing their bids, the Employer shall extend, as necessary, the deadline for submission of bids, in accordance with ITB Sub-Clause 20.2 below.</p>
C. PREPARATION OF BIDS	
11. Language of	<p>11.1 The bid prepared by the Bidder, as well as all correspondence and</p>

<p>the Bid</p>	<p>documents relating to the bid exchanged by the Bidder and the Employer shall be written in the language specified in the BDS. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the Bidding Data Sheet, in which case, for purposes of interpretation of the Bid, the translation shall govern.</p>
<p>12. Document Comprising the Bid</p>	<p>12.1 The Bid submitted by the Bidder shall comprise the following:</p> <ul style="list-style-type: none"> (a) The Form of Bid (in the format indicated in Section 3); (b) Bid Security; (c) Priced Activity Schedule; (d) Qualification Information Form and Documents; (e) Alternative offers where invited; and (f) Any other materials required to be completed and submitted by bidders, as specified in the BDS. <p>12.2 Bidders bidding for this contract together with other contracts stated in the IFB to form a package will so indicate in the bid together with any discounts offered for the award of more than one contract.</p>
<p>13. Bid Prices</p>	<p>13.1 The Contract shall be for the Services, as described in Appendix A to the contract and in the Specifications, Section 8, based on the priced Activity Schedule, Section 5, submitted by the Bidder.</p> <p>13.2 The Bidder shall fill in rates and prices for all items of the Services described in the in Specifications (or Terms of Reference), Section 8 and listed in the Activity Schedule, Section 5. Items for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Activity Schedule.</p> <p>13.3 All duties, taxes, and other levies payable by the Service Service Provider under the Contract, or for any other cause, as of the date twenty-eight (28) days prior to the deadline for submission of bids, shall be included in the total Bid price submitted by the Bidder.</p> <p>13.4 If provided for in the BDS, the rates and prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract in accordance with and the provisions of Clause 6.6 of the General Conditions of Contract and/or Special Conditions of</p>

	<p>Contract. The Bidder shall submit with the Bid all the information required under the Special Conditions of Contract and of the General Conditions of Contract.</p>
	<p>13.5 For the purpose of determining the remuneration due for additional Services, a breakdown of the lump-sum price shall be provided by the Bidder in the form of Appendices D and E to the Contract.</p>
<p>14. Currencies of Bid and Payment</p>	<p>14.1 The lump sum price shall be quoted by the Bidder separately in the following currencies:</p> <ul style="list-style-type: none"> (a) for those inputs to the Services which the Bidder expects to provide from within the Employer’s country, the prices shall be quoted in the currency of the Employer’s country, unless otherwise specified in the BDS; and (b) for those inputs to the Services which the Bidder expects to provide from outside the Employer’s country, the prices shall be quoted in up to any three currencies of international use.
	<p>14.2 Bidders shall indicate details of their expected foreign currency requirements in the Bid.</p>
	<p>14.3 Bidders may be required by the Employer to justify their foreign currency requirements and to substantiate that the amounts included in the Lump Sum are reasonable and responsive to ITB Sub-Clause 14.1.</p>
<p>15. Bid Validity</p>	<p>15.1 Bids shall remain valid for the period specified in the BDS.</p>
	<p>15.2 In exceptional circumstances, the Employer may request that the bidders extend the period of validity for a specified additional period. The request and the bidders’ responses shall be made in writing or by email. A Bidder may refuse the request without forfeiting the Bid Security. A Bidder agreeing to the request will not be required or permitted to otherwise modify the Bid, but will be required to extend the validity of Bid Security for the period of the extension, and in compliance with ITB Clause 16 in all respects.</p>
	<p>15.3 In the case of contracts in which the Contract Price is fixed (not subject to price adjustment), if the period of bid validity is extended by more than sixty (60) days, the amounts payable in local and foreign currency to the Bidder selected for award, shall be increased by applying to both the local and the foreign currency component of the payments, respectively, the factors specified in the request for extension, for the period of delay beyond sixty (60) days after the expiry of the initial bid validity, up to the notification</p>

	of award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.
16. Bid Security	16.1 The Bidder shall furnish, as part of the Bid, a Bid Security or a Bid-Securing Declaration, if required, as specified in the BDS .
	16.2 The Bid Security shall be in the amount specified in the BDS and denominated in the currency of the Employer’s Country or a freely convertible currency, and shall: <ul style="list-style-type: none"> (a) In cash, or at the bidder’s option, be in the form of either a letter of credit, or a bank guarantee from a banking institution; (b) be issued by a reputable institution selected by the bidder and located in any eligible country; (c) be substantially in accordance with one of the forms of Bid Security included in Section 9, Contract Forms, or other form approved by the Employer prior to bid submission; (d) be payable promptly upon written demand by the Employer in case the conditions listed in ITB Sub-Clause 16.5 are invoked; (e) be submitted in its original form; copies will not be accepted; (f) remain valid for a period of twenty-eight (28) days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Sub-Clause 15.2.
	16.3 If a Bid Security or a Bid- Securing Declaration is required in accordance with ITB Sub-Clause 16.1, any bid not accompanied by a substantially responsive Bid Security or Bid Securing Declaration in accordance with ITB Sub-Clause 16.1, shall be rejected by the Employer as non-responsive.
	16.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder’s furnishing of the Performance Security pursuant to ITB Clause 34.
	16.5 The Bid Security may be forfeited or the Bid Securing Declaration executed: <ul style="list-style-type: none"> (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 15.2; or (b) if a Bidder refuses to accept a correction of an arithmetical error appearing on the face of the bid;

	<ul style="list-style-type: none"> (c) if a Bidder had provided bogus information about his/her eligibility; (d) if the successful Bidder fails to: <ul style="list-style-type: none"> (i) sign the Contract in accordance with ITB Clause 33; (ii) furnish a Performance Security in accordance with ITB Clause 34.
	<p>16.6 The Bid Security or Bid- Securing Declaration of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security or Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent to constitute the JV.</p>
<p>17. Alternative Proposals by Bidders</p>	<p>17.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.</p> <p>17.2 When alternative times for completion are explicitly invited, a statement to that effect will be included in the BDS, as will the method of evaluating different times for completion.</p> <p>17.3 Except as provided under ITB Sub-Clause 17.4 below, bidders wishing to offer technical alternatives to the requirements of the bidding documents must first submit a Bid that complies with the requirements of the bidding documents, including the scope, basic technical data, graphical documents and specifications. In addition to submitting the basic Bid, the Bidder shall provide all information necessary for a complete evaluation of the alternative by the Employer, including calculations, technical specifications, breakdown of prices, proposed work methods and other relevant details. Only the technical alternatives, if any, of the lowest evaluated Bidder conforming to the basic technical requirements shall be considered by the Employer. Alternatives to the specified performance levels shall not be accepted.</p> <p>17.4 When bidders are permitted in the BDS to submit alternative technical solutions for specified parts of the Services, such parts shall be described in the Specifications (or Terms of Reference) and Drawings, Section 8. In such case, the method for evaluating such alternatives will be as indicated in the BDS.</p>
<p>18. Format and Signing of Bid</p>	<p>18.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB Clause 12 of these Instructions to Bidders, bound with the volume containing the Form of Bid, and</p>

	<p>clearly marked “ORIGINAL”. In addition, the Bidder shall submit copies of the Bid, in the number specified in the BDS, and clearly marked as “COPIES”. In the event of discrepancy between them, the original shall prevail.</p>
	<p>18.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, pursuant to Sub-Clauses 4.2(a) or 4.3(b), as the case may be. All pages of the Bid where entries or amendments have been made shall be initialed by the person or persons signing the Bid.</p>
	<p>18.3 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.</p>
<p>D. SUBMISSION OF BIDS</p>	
<p>19. Sealing and Marking the Bids</p>	<p>19.1 The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as “ORIGINAL” and “COPIES”.</p>
	<p>19.2 The inner and outer envelopes shall:</p> <ul style="list-style-type: none"> (a) be addressed to the Employer at the address provided in the BDS; (b) bear the name and identification number of the Contract as defined in the BDS and Special Conditions of Contract; and (c) provide a warning not to open before the specified time and date for Bid opening as defined in the BDS.
	<p>19.3 In addition to the identification required in ITB Sub-Clause 19.2, the inner envelopes shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared late, pursuant to ITB Clause 21.</p>
	<p>19.4 If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.</p>
<p>20. Deadline for submission of</p>	<p>20.1 Bids shall be delivered to the Employer at the address specified above no later than the time and date specified in the BDS.</p>

Bids	20.2 The Employer may extend the deadline for submission of bids by issuing an amendment in accordance with ITB Clause 10, in which case all rights and obligations of the Employer and the bidders previously subject to the original deadline will then be subject to the new deadline.
21. Late Bids	21.1 Any Bid received by the Employer after the deadline prescribed in ITB Clause 20 will be returned unopened to the Bidder.
22. Modification and Withdrawal of Bid	22.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in ITB Clause 20.
	22.2 Each Bidder’s modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 18 and 19, with the outer and inner envelopes additionally marked “MODIFICATION” or “WITHDRAWAL”, as appropriate.
	22.3 No Bid may be modified after the deadline for submission of Bids.
	22.4 Withdrawal of a Bid between the deadline for submission of bids and the expiration of the period of Bid validity specified in the BDS or as extended pursuant to ITB Sub-Clause 15.2 may result in the forfeiture of the Bid Security pursuant to ITB Clause 16.
	22.5 Bidders may only offer discounts to, or otherwise modify the prices of their bids by submitting Bid modifications in accordance with this clause, or included in the original Bid submission.
E. BID OPENING AND EVALUATION	
23. Bid Opening	23.1 The Employer will open the bids, including modifications made pursuant to ITB Clause 22, in the presence of the bidders’ representatives who choose to attend at the time and in the place specified in the BDS.
	23.2 Envelopes marked “WITHDRAWAL” shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 22 shall not be opened.
	23.3 The bidders’ names, the Bid prices, the total amount of each Bid and of any alternative Bid (if alternatives have been requested or permitted), any discounts, Bid modifications and withdrawals, the presence or absence of Bid Security, and such other details as the Employer may consider appropriate, will be announced by the Employer at the opening. No bid shall be rejected at bid opening except for the late bids pursuant to ITB Clause 21; Bids, and

	<p>modifications, sent pursuant to ITB Clause 22 that are not opened and read out at bid opening will not be considered for further evaluation regardless of the circumstances. Late and withdrawn bids will be returned unopened to the bidders.</p>
	<p>23.4 The Employer will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with ITB Sub-Clause 23.3.</p>
<p>24. Process to be Confidential</p>	<p>24.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder is notified of the award. Any effort by a Bidder to influence the Employer’s processing of bids or award decisions may result in the rejection of his Bid.</p>
	<p>24.2 If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer, who will provide written explanation. Any request for explanation from one bidder should relate only to its own bid; information about the bid of competitors will not be addressed.</p>
<p>25. Clarification of Bids</p>	<p>25.1 To assist in the examination, evaluation, and comparison of bids, the Employer may, at the Employer’s discretion, ask any Bidder for clarification of the Bidder’s Bid, including breakdowns of the prices in the Activity Schedule, and other information that the Employer may require. The request for clarification and the response shall be in writing or by email, telex, or facsimile, but no change in the price or substance of the Bid shall be sought, offered, except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with ITB Clause 27.</p>
	<p>25.2 Subject to ITB Sub-Clause 25.1, no Bidder shall contact the Employer on any matter relating to its bid from the time of the bid opening to the time the contract is awarded. If the Bidder wishes to bring additional information to the notice of the Employer, he should do so in writing.</p>
	<p>25.3 Any effort by the Bidder to influence the Employer in the Employer’s bid evaluation or contract award decisions may result in the rejection of the Bidder’s bid.</p>

26. Examination of Bids and Determination of Responsiveness	<p>26.1 Prior to the detailed evaluation of bids, the Employer will determine whether each Bid (a) meets the eligibility criteria defined in ITB Clause 3; (b) has been properly signed; (c) is accompanied by the required securities; and (d) is substantially responsive to the requirements of the bidding documents.</p>
	<p>26.2 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one (a) which affects in any substantial way the scope, quality, or performance of the Services; (b) which limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.</p>
	<p>26.3 If a Bid is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.</p>
27. Correction of Errors	<p>27.1 Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Arithmetical errors will be rectified by the Employer on the following basis: if there is a discrepancy between unit prices and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected; if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; if there is a discrepancy between the amounts in figures and in words, the amount in words will prevail.</p>
	<p>27.2 The amount stated in the Bid will be adjusted by the Employer in accordance with the above procedure for the correction of errors and, with the concurrence of the Bidder, shall be considered as binding upon the Bidder. If the Bidder does not accept the corrected amount, the Bid will be rejected, and the Bid Security may be forfeited in accordance with ITB Sub-Clause 16.5(b).</p>
28. Currency for Bid Evaluation	<p>28.1 The Employer will convert the amounts in various currencies in which the Bid Price, corrected pursuant to ITB Clause 27, is payable (excluding Provisional Sums but including Day work where priced competitively) to either:</p>

	<p>(a) the currency of the Employer’s country at the selling rates established for similar transactions by the authority specified in the BDS on the date stipulated in the BDS, for the amount payable in the currency of the Employer’s country;</p> <p>OR</p> <p>(b) a currency widely used in international trade, such as the Euro or U.S. dollar, stipulated in the BDS, at the selling rate of exchange published in the international press as stipulated in the BDS on the date stipulated in the BDS, for the amounts payable in foreign currency;</p>
<p>29. Evaluation and Comparison of Bids</p>	<p>29.1 The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Clause 26.</p>
	<p>29.2 In evaluating the bids, the Employer will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:</p> <p>(a) making any correction for errors pursuant to ITB Clause 27;</p> <p>(b) excluding provisional sums and the provision, if any, for contingencies in the Activity Schedule, Section 5, but including Day work, when requested in the Specifications (or Terms of Reference) Section 8;</p> <p>(c) making an appropriate adjustment for any other acceptable variations, deviations, or alternative offers submitted in accordance with ITB Clause 17; and</p> <p>(d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITB Sub-Clause 22.5.</p>
	<p>29.3 The Employer reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors, which are in excess of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Employer will not be taken into account in Bid evaluation.</p>
	<p>29.4 The estimated effect of any price adjustment conditions under Sub-Clause 6.6 of the General Conditions of Contract, during the period of implementation of the Contract, will not be taken into account in Bid evaluation.</p>
<p>30. Preference for Domestic</p>	<p>30.1 Domestic bidders shall not be eligible for any margin of preference in Bid evaluation.</p>

Bidders	
F. AWARD OF CONTRACT	
31. Award Criteria	31.1 Subject to ITB Clause 32, the Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the bidding documents and who has offered the lowest evaluated Bid price, provided that such Bidder has been determined to be (a) eligible in accordance with the provisions of ITB Clause 3, and (b) qualified in accordance with the provisions of ITB Clause 4.
	31.2 If, pursuant to ITB Sub-Clause 12.2 this contract is being let on a “SLICE AND PACKAGE” basis, the lowest evaluated Bid Price will be determined when evaluating this contract in conjunction with other contracts to be awarded concurrently, taking into account any discounts offered by the bidders for the award of more than one contract.
32. Employer’s Right to Accept any Bid and to Reject any or all Bids	32.1 Notwithstanding ITB Clause 31, the Employer reserves the right to accept or reject any Bid, and to cancel the bidding process and reject all bids, at any time prior to the award of Contract, without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Employer’s action.
33. Notification of Award and Signing of Contract	33.1 The Bidder whose Bid has been accepted will be notified of the award by the Employer prior to expiration of the Bid validity period written or by email, or facsimile confirmed by registered letter from the Employer. This letter (hereinafter and in the Conditions of Contract called the “LETTER OF ACCEPTANCE”) will state the sum that the Employer will pay the Service Service Provider in consideration of the execution, completion, and maintenance of the Services by the Service Service Provider as prescribed by the Contract (hereinafter and in the Contract called the “CONTRACT PRICE”).
	33.2 The notification of award will constitute the formation of the Contract.
	33.3 The Contract, in the form provided in the bidding documents, will incorporate all contracts between the Employer and the successful Bidder. It will be signed by the Employer and sent to the successful Bidder along with the Letter of Acceptance. Within Ten (10) days of receipt of the Contract, the successful bidder shall sign the Contract and return it to the Employer, together with the required performance security pursuant to Clause 34.

	<p>33.4 Upon fulfillment of ITB Sub-Clause 33.3, the Employer will promptly notify the unsuccessful Bidders the name of the winning Bidder and that their bid security will be returned as promptly as possible.</p> <p>33.5 If, after notification of award, a bidder wishes to ascertain the grounds on which its bid was not selected, it should address its request to the Employer. The Employer will promptly respond in writing to the unsuccessful Bidder.</p>
34. Performance Security	<p>34.1 Within Ten (10) days after receipt of the Letter of Acceptance, the successful Bidder shall deliver to the Employer a Performance Security in the amount and in the form stipulated in the BDS, denominated in the type and proportions of currencies in the Letter of Acceptance and in accordance with the General Conditions of Contract.</p> <p>34.2 The Performance Security provided by the successful Bidder in the form of a Bank Guarantee, shall be issued either (a) at the Bidder's option, by a bank located in the country of the Employer or a foreign bank through a correspondent bank located in the country of the Employer, or (b) with the contract of the Employer directly by a foreign bank acceptable to the Employer.</p> <p>34.3 Failure of the successful Bidder to comply with the requirements of ITB Sub-Clause 34.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security.</p>
35. Advance Payment and Security	<p>35.1 The Employer will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to the amount stated in the BDS.</p>
36. Adjudicator	<p>36.1 The Employer proposes the person named in the BDS to be appointed as Adjudicator under the Contract, at an hourly fee specified in the BDS, plus reimbursable expenses. If the Bidder disagrees with this proposal, the Bidder should so state in the Bid. If, in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of Contract at the request of either party.</p>
37. Corrupt and Fraudulent Practices	<p>37.1 It is the Government's policy to require that Purchasers, as well as Bidders, Suppliers, and Contractors and their subcontractors under Government-financed contracts, observe the highest standard of ethics</p>

	<p>during the procurement and execution of such contracts¹. In pursuance of this policy, the Government:</p> <p>(a) Defines, for the purpose of this provision, the terms set forth as follows:</p> <p>(i) “CORRUPT PRACTICE” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party²;</p> <p>(ii) “FRAUDULENT PRACTICE” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party³ to obtain a financial or other benefit or to avoid an obligation;</p> <p>(iii) “COLLUSIVE PRACTICE” is an arrangement between two or more parties⁴ designed to achieve an improper purpose, including to influence improperly the actions of another party;</p> <p>(iv) “COERCIVE PRACTICE” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party⁵ or the property of the party to influence improperly the actions of a party;</p> <p>(v) “OBSTRUCTIVE PRACTICE” is:</p> <ul style="list-style-type: none"> • Deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from
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¹ In this context, any action taken by a Bidder, Supplier, Contractor, or a sub-Contractor to influence the procurement process or contract execution for undue advantage is improper.

² “ANOTHER PARTY” refers to a public official acting in relation to the procurement process or contract execution. In this context, “PUBLIC OFFICIAL” includes Government staff and employees of other organizations taking or reviewing procurement decisions.

³ A “PARTY” refers to a public official; the terms “BENEFIT” and “OBLIGATION” relate to the procurement process or contract execution; and the “ACT OR OMISSION” is intended to influence the procurement process contract execution.

⁴ “PARTIES” refers to participants in the procurement process (including officials) attempting to establish Bid prices at artificial, non competitive levels.

⁵ a “PARTY” refers to a participant in the procurement process or contract execution.

	<p>disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or</p> <ul style="list-style-type: none"> • Acts intended to materially impede the exercise of the Government’s inspection and audit rights provided for under sub-clause 3.1(e) below. <p>(b) will reject a proposal for award if it determines that the Bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;</p> <p>(c) will sanction and prosecute any procurement official if it finds out that at any time that representative of the procuring entity engaged in corrupt, fraudulent, collusive, or practices during the procurement or the execution of the contract, without the procuring entity having taken timely and appropriate action satisfactory to the Government to address such practices when they occur;</p> <p>(d) will sanction a firm or individual, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded a GoA financed contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a GoA financed contract; and</p> <p>(e) will have the right to require that a provision be included in bidding documents and in contracts financed by the entity, requiring Bidders, suppliers, and contractors and their sub-contractors to permit the Government to inspect their accounts and records and other documents relating to the Bid submission and contract performance and to have them audited by auditors appointed by the Government.</p>
	<p>37.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clauses 1.7 and 2.6.1 of the General Conditions of Contract.</p>

SECTION 2 BIDDING DATA SHEET

ITB Clause	Amendments of, and Supplements to, Clauses in the Instruction to Bidders
A. GENERAL	
ITB 1.1	<p>The Employer is: Ministry of Communication & Information Technology, Afghan Telecom Corporation</p> <p>The name and identification number of the Contract is: <i>Provision of 22.5 Gig Internet Services for Afghan Telecom Corporation</i></p> <p>Reference No: NPA/MoCIT/97/NCS-2313 /ICB</p>
ITB 1.2	The Intended Completion Date is: One year after signing of the contract
ITB 2.1	The Project is: <i>Provision of 22.5 Gig Internet Services for Afghan Telecom Corporation</i>
ITB 2.2	The public funds are identified as: Afghan Telecom Corporation Budget
ITB 4.2	<p>The Qualification Information and Bidding forms to be submitted are as follows:</p> <ul style="list-style-type: none"> • Service Service Provider’s Bid form, As per Section 3 • Qualification Information Form covering all required information there in, As per section 3 • Filled, Signed and Stamped Price Schedule, As per Section 3 • Written power of attorney for the signing of the Bid unless it is signed by head or deputy of the company and in case of JV the signatory shall be signed by JV; • Written Power of Attorney for the person who will attend in bid opening session unless head or deputy of the company attends the session; • Copies of original License defining the constitution or legal status, place of registration, and principal place of business (Update Company license); • Evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources); • Reports on the financial status of the Bidder, such as audited financial reports for the last five (5) years; • Tax clearance document for the latest financial period before to this bid opening session.
ITB 4.2 (d)	List of major items of equipment proposed to carry out the Contract: Not Applicable
ITB 4.2 (e)	Qualifications and experience of key site management and technical personnel proposed for the Contract; Not Applicable

ITB 4.3	<p>The information needed for Bids submitted by joint ventures is as follows:</p> <ul style="list-style-type: none"> (a) The Bid shall include all the information listed in ITB Sub-Clause 4.2 above for each joint venture partner; (b) The Bid shall be signed so as to be legally binding on all partners; (c) The Bid shall include a copy of the contract entered into by the joint venture partners defining the division of assignments to each partner and establishing that all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; (d) One (1) of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and (e) The execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
ITB 4.4	The qualification criteria in Sub-Clause 4.4 are modified as follows:
ITB 4.4(a)	The minimum required average annual volume of Services for the successful Bidder During of the last five (5) years shall be: (3,720,000) USD
ITB 4.4(b)	The experience required to be demonstrated by the Bidder as a prime Contractor should include at least one contract in the similar nature and complexity that has been executed during the last five (5) years in the following value: (2,029,046) USD
ITB 4.4(e)	The minimum amount of liquid assets and/or credit facilities net of other contractual commitments of the successful Bidder shall be: (845,436) USD
ITB 4.5	<p>The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub-Clause 4.4(a), (b), (d) and (e); however, for a joint venture to qualify the partner in charge must meet at least forty (40) percent of those minimum criteria for an individual Bidder and other partners at least twenty-five (25) percent of the criteria. Failure to comply with this requirement will result in rejection of the joint venture's Bid.</p>
	Subcontractors' experience to be taken into account is: Not Applicable

B. BIDDING DATA	
ITB 9.1	<p>A pre-bid Meeting will be held on (24 December 2018), 10.00 AM (local time) at below address:</p> <p>Address: Ministry of Communication & Information Technology, Afghan Telecom Corporation Main Office, Post and Parcel Building, 4th Floor, Mohammad Jan khan Watt, Kabul, Afghanistan</p> <p>Attention: Babrak Haidari</p> <p>E-mail: b.haidari@afghantelecom.af.</p> <p>Telephone: Mob. +93 (0) 749 416 409, (0) 786 222 303</p>
C. PREPARATION OF BIDS	
ITB 11.1	Language of the bid: English
ITB 12.1	<p>12.3 The Bid submitted by the Bidder shall comprise the following:</p> <p>The Form of Bid (in the format indicated in Section 3);</p> <ul style="list-style-type: none"> ✓ Bid submission Form/01 ✓ Qualification Information Form/02 ✓ Priced Schedule Form/03 ✓ Bid Security Form/04 or Bid-Securing Declaration Form/05 (if applicable) ✓ Line of credit Form/06 (If required)
ITB 13.4	The Contract [is not] subject to price adjustment in accordance with Clause 6.6 of the General Conditions of Contract.
ITB 14.1(a)	Local inputs shall be quoted in: USD
ITB 15.1	The period of Bid validity shall be (120) days after the deadline for Bid submission specified in the BDS
ITB 16.1	The Bidder shall provide as part of the Bid, Bid Security in the form of bank guarantee in the amount and validity specified in BDS . According to Form/04 of Bidding Forms, section 3 of this bid document.
ITB 16.2	<p>The amount of Bid Security shall be USD (67,700) or an equivalent amount in a freely-convertible currency valid for a period of 28 days beyond the validity period of the bids i.e. 148 days from bid submission deadline or extended bid submission deadline date, if extended in accordance with ITB Clause 20.2;”</p> <p>Note: The bid security shall be submitted in original form. Photo copies/ Scanned copies will not be accepted;</p> <p>If the bid security is issued by a financial institution that is located outside Afghanistan, such financial institution shall have a correspondent financial institution located in Afghanistan to make it</p>

	enforceable. Bidders shall be allowed to submit bank guarantees directly issued by the bank of their choice located in any eligible country. In case of JV the Bid security shall be in the name of JV.
ITB 16.6	The Bid Security of a JV must be in the name of the JV that submits the bid.
ITB 17.1	Alternative bids [are not] permitted.
ITB 17.2	Alternative times for completion [is not] permitted.
ITB 17.4	Alternative technical solutions shall be permitted for the following parts of the Services: Not Applicable
ITB 18.1	The number of copies of the Bid to be completed and returned shall be: 1 Original, 1 Copy & 1 Soft Copy in Flash Memory
D. SUBMISSION OF BIDS	
ITB 19.2	The Employer's address for the purpose of Bid submission is: Address: Administrative Office of the President National Procurement Department (NPA) NPA Building, 1ST Floor, Pashtunistan Watt, Kabul, Afghanistan Attention: Aziz Ahmad Rodwal Procurement Specialist E-mail: aziz.rodwal@aop.gov.af <u>CC: Zabihulrahman.Rahmani@aop.gov.af, rafi.mansoor@aop.gov.af, b.haidari@afghantelecom.af</u> Telephone: 0202147557 For identification of the bid the envelopes should indicate: Contract: Provision of 22.5 Gig Internet Services for Afghan Telecom Corporation
ITB 20.1	The deadline for submission of bids shall be: Date: (05 January 2019) Time: 10:00 am at Kabul local time
E. BID OPENING AND EVALUATION	
ITB 23.1	Bids will be opened at (05 January 2019), Kabul Local Time of the day at the following address: The Employer's address for the purpose of Bid submission is: Address: Administrative Office of the President National Procurement Department (NPA) NPA Building, 1ST Floor, Pashtunistan Watt, Kabul, Afghanistan Attention: Aziz Ahmad Rodwal Procurement Specialist E-mail: aziz.rodwal@aop.gov.af

	<p><u>CC: Zabihulrahman.Rahmani@aop.gov.af, rafi.mansoor@aop.gov.af, b.haidari@afghantelecom.af</u></p> <p>Telephone: 0202147557</p> <p>In case the specified deadline day of bid submission is declared holiday for the purchaser, the bids shall be submitted and opened at the specified time on the next working day.</p>
ITB 28.1	<p>Currency chosen for the purpose of converting to a common currency: (Afghani)</p> <p>Source of exchange rate: (Da Afghanistan Bank)</p> <p>Exchange rate date: Bid Opening Date</p>
ITB 30.1	<p>A margin of domestic preference will apply as per the revised Procurement Law and Procedures of Afghanistan as follows:</p> <ol style="list-style-type: none"> 1. Domestic goods comparing to the imported finished goods – 25% 2. Local & foreign resident companies comparing to the non-resident companies operating in Afghanistan – 10% 3- Local women companies comparing to the local and foreign resident companies in Afghanistan -5% 4. Foreign companies operating jointly with local partners as (JV) or comitted to have local subcontractor comparing to other foreign companies operating outside the country – 5%. <p>Note: A bidder will be eligible only for one of the above preferences at a time.</p>
F. AWARD OF CONTRACT	
ITB 34.1	<p>The Performance Security acceptable to the Employer shall be in the Standard Form of: NCS Form/09 An unconditional Bank Guarantee for an amount of (10%) of the Contract Price</p>
ITB 35.1	<p>The Advance Payment: Not Applicable</p>
ITB 36.1	<p>The Adjudicator proposed by the Employer is: Will be assigned by Ministry of Justice</p> <p>The hourly fee for this proposed Adjudicator shall be: Specified by Ministry of Justice</p>

SECTION 3 BIDDING FORMS

TABLE OF FORMS

Form Number	Heading of Form
NCS Form/01	Bid Submission Form
NCS Form/02	Qualification Information Form
NCS Form/03	Price Schedule
NCS Form/04	Bid Security Form
NCS Form/05	Bid-Securing Declaration Form
NCS Form/06	Line of credit

**NCS FORM /01
BID SUBMISSION FORM**

[Date]

To: *[name and address of Employer]*

Having examined the bidding documents including addenda No, we offer to execute the *[name and identification number of Contract]* in accordance with the Conditions of Contract, specifications, drawings and activity schedule accompanying this Bid for the Contract Price of *[amount in numbers], [amount in words] [names of currencies]*.

The Contract shall be paid in the following currencies:

Currency	Amount payable in currency	Inputs for which foreign currency is required
(a)		
(b)		

We accept the appointment of *[name proposed in the Bidding Data Sheet]* as the Adjudicator.

[or]

We do not accept the appointment of *[name proposed in the Bidding Data Sheet]* as the Adjudicator, and propose instead that *[name]* be appointed as Adjudicator, whose daily fees and biographical data are attached.

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

We hereby confirm that this Bid complies with the Bid validity and Bid Security required by the bidding documents and specified in the Bidding Data Sheet.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

NCS Form/02
QUALIFICATION INFORMATION FORM

1. Individual Bidders or Individual Members of Joint Ventures

- 1.1 Constitution or legal status of Bidder: *[attach copy]*
 Place of registration: *[insert]*
 Principal place of business: *[insert]*
 Power of attorney of signatory of Bid: *[attach]*
- 1.2 Total annual volume of Services performed in five (5) years, in the internationally traded currency specified in the BDS: *[insert]*
- 1.3 Services performed as prime Service Service Provider on the provision of Services of a similar nature and volume over the last five (5) years. The values should be indicated in the same currency used for Item 1.2 above. Also list details of work under way or committed, including expected completion date.

Project name and country	Name of employer and contact person	Type of Services provided and year of completion	Value of contract
(a)			
(b)			

- 1.4 Major items of Service Service Provider's Equipment proposed for carrying out the Services. List all information requested below. Refer also to ITB Sub-Clause 4.2(d).

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

	1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. Attach biographical data. Refer also to ITB Sub-Clause 4.2(e) and GCC Clause 4.1.		
Position	Name	Years of experience (general)	Years of experience in proposed position

(a)			
(b)			

1.6 Proposed subcontracts and firms involved.

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

	<p>1.7 Financial reports for the last five (5) years: balance sheets, profit and loss statements, auditors' reports, etc. <i>[List below and attach copies]</i></p> <p>1.8 Evidence of access to financial resources to meet the qualification requirements: cash in hand, lines of credit, etc. <i>[List below and attach copies of support documents.]</i></p> <p>We certify/confirm that we comply with eligibility requirements as per ITB Clause 3.</p> <p>1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Employer.</p> <p>1.10 Information regarding any litigation, current or within the last five years, in which the Bidder is or has been involved.</p>
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Other party(ies)	Cause of dispute	Details of litigation award	Amount involved
(a)			
(b)			

	<p>1.11 Statement of compliance with the requirements of ITB Sub-Clause 3.2.</p> <p>1.12 Proposed Program (service work method and schedule). Descriptions, drawings, and charts, as necessary, to comply with the requirements of the bidding documents.</p>
2. Joint	2.1 The information listed in 1.1 to 1.11 above shall be provided for

<p>Ventures</p>	<p>each partner of the joint venture.</p> <p>2.2 The information in 1.12 above shall be provided for the joint venture.</p> <p>2.3 Attach the power of attorney of the signatory (ies) of the Bid authorizing signature of the Bid on behalf of the joint venture.</p> <p>2.4 Attach the Contract among all partners of the joint venture (and which is legally binding on all partners), which shows that:</p> <ul style="list-style-type: none"> (a) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms; (b) one of the partners will be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
<p>3. Additional Requirements</p>	<p>3.1 Bidders should provide any additional information required in the BDS and to fulfill the requirements of ITB Sub-Clause 4.1, if applicable.</p>

Authorized Signature: _____
Name and Title of Signatory: _____
Name of Bidder: _____
Address: _____

NCS Form/03
Price Schedule

13. Priced Activity Schedule:

The bidders are required to quote for lump- sum Price for all services required under Activity Schedule, Statement of Work (Terms of Reference) using following format:

S. No	Description	Bandwidth/Capacity	Termination point	Price (Per Month)	Total Price (Per Year)	Total Price (for 3 Years)
1	Internet Service	22.5 Gbps	Pakistan Border (Turkham and Chaman)			

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder: _____

Address: _____

NCS Form/04

BID SECURITY: BANK GUARANTEE FORM (APPLICABLE)

[The Bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]

BENEFICIARY:

DATE:

BID GUARANTEE NO.:

We have been informed that _____, hereinafter called "THE BIDDER", has submitted to you its bid dated, hereinafter called "THE BID" for the execution of _____ under Invitation for Bids No. _____, "THE IFB".

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we _____ hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[Insert the amount in words and figures]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has modified or withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) has refused to accept a correction of an arithmetical error appearing on the face of the bid; or
- (c) had provided bogus information about his/her eligibility; or
- (d) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity, (i) fails or refuses to execute the Contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to Bidders.

This guarantee will expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder; or (ii) twenty-eight days after the expiration of the Bidder's Bid.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[Signature]

NCS Form/05

BID-SECURING DECLARATION (NOT APPLICABLE)

[The Bidder shall fill in this Form in accordance with the instructions indicated]

Date: *[Insert the date (as day, month and year)]*

Bid No.: *[Insert the number of bidding process]*

Alternative No.: *[Insert the identification No if this is a Bid for an alternative]*

To: *[Insert complete name of Purchaser]*

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration;

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of *[Insert the number of months or years]* starting on *[insert the date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have modified or withdrawn our Bid during the period of bid validity specified in the Form of Bid;
- (b) have refused to accept a correction of an arithmetical error appearing on the face of the bid;
- (c) have provided bogus information about his/her eligibility; or
- (d) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight (28) days after the expiration of our Bid.

Signed: *[Insert the signature of person whose name and capacity are shown]*

In the capacity of *[Insert the legal capacity of person signing the Bid Securing Declaration]*

Name: *[Insert complete name of person signing the Bid Securing Declaration]*

Duly authorized to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on _____ day of _____, _____ *[Insert date of signing]*

Corporate Seal (where appropriate)

[Note: In case of a Joint Venture, the Bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]

NCS Form/06
LINE OF CREDIT

(The bank is obliged to arrange this standard form on its official sheet without any modification/changes except for the inside of the arc)

Name of beneficiary: { *Insert name of the bidder to whom this line of credit will be issued* }

No: { *Insert the line of credit number* }

Date: { *Insert the issue date of line of credit document* }

To: { *Insert the relevant Entity Name/Ministry* }

According to request No {.....} date {...../...../.....} { *Insert name of the bidder to whom this line of credit will be issued* }, Line of credit over { *Amount of line of credit* } has been issued. This line of credit is terminated or modified only in case of termination of the procurement process/contract for which the document is issued.

This line of credit is approved in accordance to provisions of laws, regulations, circulars and orders of the Da Afghanistan Bank and as per policies, procedures and internal guidelines of the bank, considering the delegated authority on these policies, by { *senior managers, credit committee, the board of directors or the bank's supervisory board* }. The line of credit has been awarded to the bidders after the receipt of fees and the bank's commission.

This line of credit only in case of winning of { *Insert name of the bidder to whom this line of credit will be issued* } in bidding of { *Insert the Reference Number & Project Name* } is utilizable from the bidder and is valid up to { *expiration date* }.

Signature: { *The signature of responsible employee* }

Stamp: { *Stamp of Bank* }

SECTION 4 ELIGIBLE COUNTRIES

ELIGIBILITY FOR THE PROVISION OF GOODS, WORKS AND SERVICES IN PUBLIC FUNDS FINANCED PROCUREMENT

The entity permits firms and individuals from all countries to offer goods, works and services for Public funds Financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:

- (a) as a matter of law or official regulation, the Islamic Republic of Afghanistan prohibits commercial relations with that Country, provided that the entity is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required; or
- (b) by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Procuring Entity's country prohibits any import of goods from that Country or any payments to persons or entities in that Country.

For the information of bidders, at the present time firms, goods and services from the following countries are excluded from this bidding:

- (a) With reference to national legislation:
[List all the countries]
- (b) With reference to international commitments:
[List all the countries]

PART II ACTIVITY SCHEDULE
SECTION 5 ACTIVITY SCHEDULE

TERMS OF REFERENCE FOR PROVISION OF 22.5 Gig INTERNET SERVICES

Project Background:

Afghan Telecom Corporation is the largest telecommunication services in Afghanistan. The company is working continuously to fulfill and satisfy the market requirements, keeping pace with the emerging technologies in the telecommunications sector and satisfying the customer's needs.

Afghan Telecom is the pioneer in implementing new telecommunication services in Afghanistan & a leader in the Afghanistan telecommunication market. The role & use of telecommunications is significant for the development of the people & the country.

Believing in the importance of its customers and fulfillment of their needs, Afghan Telecom Corporation is going to sign the contract for provisioning 22.5Gig internet with Pakistan as open bidding.

The main importance and goal of this project is to provide redundant internet service to all customers and increase the bandwidth capacity.

In case we observe fiber cut with existing links from Kyrgyzstan, Uzbekistan and Iran route we will be able to provide service from Pakistan to our customers without any outage.

By implementing this project, AFTEL service level will be improved and will be able to provide reliable and stable internet service to customers all over Afghanistan.

Objective:

This project is in order to establish links with uplink Service Providers from neighbor countries to get connected globally and provide internet services to Afghan Telecom customers by optical fiber cable.

Technical Specifications:

Optical fiber cables are already laid and connectivity is established. No need for any equipment or devices to be installed.

Interconnection Node Of Afghanistan	AFTEL Node Capacity	Existing Network Bandwidth	Occupied Network Bandwidth
Turkham-Pakistan (Landikotal)	40G(DWDM)	12.5 Gig	10Gig + 1xSTM16
Chaman-Kandahar	10G (DWDM)	10 Gig	4xSTM16

Scope of work, warranties and liabilities of the parties:

- The customer warrants full and timely payment for the services provided by the Service Provider to the customer hereunder.

- The Customer acknowledges that the Service Provider does not ensure and control operation of the Internet in any way and that all goods (items of trade), information, content and services offered by or available on the Internet are proposed by the third parties with which the Customer shall directly sign contracts to purchase these services. Thus, the Service Provider makes no expressed or implied warranties and makes no representations regarding any goods, information, content or services offered by or available on the Internet.
- Service Provider is responsible to provide full unlimited access to internet without any type of filtering.
- Scheduled tests of the Services shall not be held more than once a month and not more than 24 hours totally in quarter. If scheduled maintenance time exceeds the mentioned time than scheduled maintenance of the Services will not be paid by the customer.
- The Service Provider shall notify the Customer of maintenance and repair works one business day prior to their beginning.
- The Customer may get a discount (credit) on monthly fees in the event of Service outages.
- The Service Provider is not liable for the content of information transmitted and received by the customer during usage of the Services.
- Each Party is liable for obtaining all necessary permits, rights and licenses to operate within the limits of the applicable law.
- The customer is liable for timely notification of the Service Service Provider of any changes to its correspondence address, fax/phone or e-mail, to which monthly invoices should be sent.
- The Service Provider is liable for timely notification of the Customer of any changes to its bank details.
- The Parties undertake to use only certified equipment and licensed software during execution of this Contract.
- In the event of termination of this Contract, each Party is solely liable for all contracts and contracts that it has signed with its subscribers, users and Service Providers.
- Each Party individually considers the claims of its subscribers, users and other Service Providers regarding contracts and contracts signed with that Party.

Termination of the contract

- This Contract may be terminated by either Party by notifying the other Party in writing 30 calendar days prior to such termination.
- Regardless of the reason of termination, this Contract shall be terminated without prejudice to any rights, liabilities and obligations of either Party accrued during the period preceding the termination. Respective obligations of the Parties, which can be inherently retained after termination of this Contract, shall be retained after termination

or expiration of this Contract, including but not limited to, provisions related to confidentiality of information, material and financial liabilities and settlement of disputes.

- Termination of this contract shall not affect any material or financial obligations of the customer arising out of this Contract, including the obligation to pay for the Services provided prior to such termination of the Services or termination of this Contract. In the event of such termination, the Customer shall, as soon as possible, but in any case not later than thirty (30) calendar days after the date of termination of this Contract, pay in full all outstanding amounts payable to the Service Provider under this Contract.
- Not with standing any other provision of this contract, if the Customer withholds payment of any amount payable to the Service Provider under this Contract for a period exceeding thirty (30) calendar days, the Service Provider by sending advance written notice to the customer fifteen (15) calendar days prior to the date of termination of this Contract or termination/suspension of the Service, may, at its discretion:
 - 1) suspend provision of the Services until receiving payment from the Customer;
 - 2) terminate the Services and terminate this Contract.
- In case of any failure, trouble, mistake, shutdown, breakdown or any other negative actions and line functioning, as well as SLA nonperformance by Service Provider, customer has a right to terminate Contract and/or order with no penalties for the customer for early termination, with prior notice about such failures.
- Not with standing other provisions of this Contract, each Party shall have the right to terminate this Contract by notifying the other Party in writing, if:
 - 1) A notice of business bankruptcy or insolvency has been given to the other Party, and there are objective reasons for validity of bankruptcy or insolvency of the other Party; or
 - 2) The other Party commences legal procedures for its liquidation or dissolution;
 - 3) It is required by the government, state, legislative or regulatory authority with jurisdiction over such Party; or
 - 4) a license, permit or authority of any of the Parties required for provision or use of the Service has been expired, suspended or withdrawn by the public authority with jurisdiction over such Party, and such license, permit or authority hasn't been recovered within 60 days after its expiration, suspension and withdrawal; or
 - 5) A force majeure event that adversely affects the performance of or prevents proper performance of material obligations of the other Party arising out of this Contract continues for a period of more than 10 days.

Force Majeure

- Neither of the Parties shall be liable for delays in provision of the Services or inability to perform any obligation under this Contract directly or indirectly caused by the reasons that don't depend on the will of any of the Parties, and the origin and consequences of which can't be foreseen and prevented. These reasons (each being referred to as a "force majeure event") include, but not limited to, natural disasters, actions (including inactions) of any public authorities, riots, revolutions, strikes or other labor unrest, severe weather

conditions, acts of God or other natural phenomena (such as earthquakes, fires, explosions, etc.), quarantine, embargo or restrictions of export and import operations, acts of public authorities and/or local authorities in the respective administrative territories.

- In the event of one or more force majeure events, the Party that fails to perform its obligations towards the other Party shall notify the other Party of the nature, beginning and termination of a force majeure event, and within ten (10) days from the date of the relevant force majeure event shall send to the other Party written notification attached by the relevant documents issued by the competent authority specifying a force majeure event and stating that performance of contractual obligations will be continued as soon as the effect of force majeure is over.
- In the event of one or more force majeure events, the Parties may terminate this contract after settlement of all disputes and making all necessary payments between the Parties. In this case, none of the Parties shall have the right to claim for compensation by the other Party for any possible losses.

Confidentiality

During the period of validity of this Contract and three (3) years after its termination each Party shall treat as confidential and protect all information received as a result of execution of this Contract, including the text of this Contract. Each Party shall use confidential information only for the purpose of performance of its obligations hereunder and take all necessary steps to prevent disclosure or misuse of the confidential information. Each Party undertakes not to transfer information about the other Party received during discussion and execution of this Contract to any third party (excluding representatives of relevant government authorities entitled to receive such information in accordance with the national law) without express consent of the other Party or valid judgment.

Service' Parameters

The Services must have the following specified parameters for landlines (not radio):

- Maximum Round Trip Delay on Service Provider's Backbone Network: no more than 15ms;
- Packet Loss for transmissions from the Service Provider Edge Router to the Customer: no more than 0% (to the border of Pakistan)(Turkham (Landikotal)(Chaman-Kandahar)

To define and measure the Service Parameters the following rules shall be applied:

- All parameters are measured in the area of Service Provider's responsibility and over internet;
- Service Provider is responsible for service till it is connected to Customers Equipment

Area of Service Provider's responsibility

- The area of Service Provider's responsibility, includes whole IP network of the Service Provider and towards internet, including nodes of the Service Provider and its regional offices, which connect their backbones and data centers under the Service Provider's control. Area of Service Provider's responsibility ends at the junction of fiber-optic

communication line at end the interconnection point with Customer. Service Provider shall make every effort to provide services without web-filters, Law Enforcement Support System and other control activities.

- Within the area of its responsibility the Service Provider guarantees availability of the Services and monitors the Service. Being said Service Provider Guarantees general availability of internet.

Service Availability

1. Levels of service availability

The Service of the Service Provider is deemed fully available, if the Customer may use certain features provided by the Service. The Service Provider guarantees monthly service availability of at least 99.5%.

Events, in which the customer cannot use features of the service because of complete lack of the Service, are deemed downtime.

Cases of downtime are taken into account during measurement of the service availability rate, save for the cases of Service outages due to scheduled maintenance agreed with the Customer in advance, or due to update of the Service ordered by the Customer, or cases arising during elimination of circumstances that threaten operating capabilities of other customers and/or network in general, or cases that have already arisen due to the circumstances that are not under the Service Provider's control, such as:

- force majeure;
- failures caused by deviation of the customer from the agreed operating conditions;

2. Classes of Service based on the Maximum Failure Restoration Time

Restoration time (RT) is a period of time between a moment when Service Provider's NOC has been informed for the first time and a moment when the Service has been fully restored in accordance with its specification. A failure means a case of downtime or partial availability of the Service. Maximum Failure Restoration Time (MFRT) is the maximum value of RT measured during one month.

Customer Service

The Service Provider ensures the following level of customer service:

- 24/7 availability of NOC for Customer's calls; the Customer shall inform the Service Provider about any failure by phone numbers and addresses listed.
- The customer shall receive an answer from Service Provider's technical support engineer no later than within 30 minutes after receiving a trouble ticket by NOC.
- Troubleshooting report shall be submitted every two hours in the event of downtime and progressively in the course of investigation in the event of degradation of Service quality;
- Escalation procedure.

Maintenance

The Service Provider monitors its network on a continuing basis and proactively takes measures that can be preplanned or caused by failures.

The Service Provider may replace cables and equipment to meet the provisions of this terms and conditions of the Service provisioning under the Contract. The Service Provider shall make every effort to minimize any inconvenience suffered by the Customer in connection with such works. Scheduled maintenance or replacement of equipment shall be made within specially defined time intervals: from 23:00 till 02:00 GMT +0, taking into account the time of loading on the type of equipment used by the Customer. If it is impossible to carry out maintenance works at night, or in case of accidental failures maintenance works may be carried out in the daytime. If the Service Provider plans to carry out scheduled maintenance, it shall notify the Customer by fax or email of the type of the maintenance and its duration at least 24 (twenty-four) hours prior to the beginning of maintenance.

Measurement and reporting

Measurement of service parameters and related reporting shall be made by the Service Provider on a regular basis.

Measurement of downtime

The following principles shall be applied to measure downtime:

- Service availability shall be monitored by NOC on a continuing basis.
- TT shall be opened by NOC in each case of downtime. TT may be initiated by an authorized representative of the Customer or Service Provider.
- TT shall contain information about the moment of the beginning of downtime and the moment of service restoration. Service Restoration Time shall be agreed with the Customer.
- The moment of the beginning of downtime shall be the moment at which problem started.
- The moment of the end of downtime shall be defined as the moment at which the Service is restored in full.

Measurement of failure restoration time

The following principles shall be applied to measure failure restoration time:

- TT (Ticket) shall be opened by NOC in each case of any failure. TT may be initiated by an authorized representative of the Customer or Service Provider.
- TT shall contain information about the moment of the beginning of a failure and the moment of service restoration.
- The moment of the beginning of a failure shall be the moment at which an authorized representative of the Customer contacts NOC of the Service Provider with the requirement to open TT or TT is opened by the Service Provider's NOC on its own initiative.
- The moment of failure restoration shall be defined as the moment at which the Service is restored in full.
- TT shall be stored in NOC's log.

- TT opened due to partial availability of services shall not be taken into consideration during measurement of MFRT in the event of usage of Customer's port on the Service Provider Edge Router by more than 90%.

Bandwidth Test and Link Performance

Afghan telecom will perform bandwidth test once a month to ensure the contracted bandwidth allocation. The below procedures should be carried out for testing the bandwidth:

- Making the link congested by putting more traffic on the link.
- IPERF is an open source tool that can be used to test network bandwidth and performance. IPERF is much more reliable in its test results compared to many other online network speed test Service Providers.

Regulation of compensation payable to the customer

The following cases shall be deemed the downtime:

- periods of full unavailability of the Services
- periods of partial availability of the Services for more than 10 consecutive minutes
- Periods of bandwidth degradation

In case of an interruption of the services occurred within the area of Service Provider responsibility and through its fault, Service Provider shall decrease the monthly rate to an amount proportional to the time of interruption (according to the information of the Service interruption) on the basis of the payment per each hour of the delay in the provision of the Service (cost of one hour is equal to 1/720 (one of seven hundred twentieth) part of the monthly amount for the relevant Service) in the accounting month. Service Provider shall not be liable for any delays and interruptions of the Services caused by damage of the Customer's hardware and/or software or its improper use through no fault of Service Provider.

Payment for the services

- Settlement month is set from the (1st till 30th / 31st) day of month.
- Non-recurring fees for installation and commissioning works shall be paid by the Customer within 30 (Thirty) calendar days from the date of receipt of corresponding invoice by the Customer. Invoices shall be issued by the Service Provider within 5 (five) business days from the date of confirmation the Service Acceptance from the Customer side.
- Monthly fees for provision of the Services shall be paid by the Customer within fifteen (15) calendar days from the date of receipt of corresponding invoice from the Service Provider.

Duration of the contract

- The contract term for this service is for one full year (12 months) with effect from the link(s) activation date.

- This contract shall enter into force when signed by both Parties and remain in full force and effect until expiration of the terms of the services specified here of or until terminated under the conditions specified in (TERMINATION OF THE CONTRACT).
- Any changes/modifications to the Services provided under this Contract may be made only on the basis of signing an amendment by both, which contains information about the conditions, value and desired/actual terms of such changes/modifications.
- The service is available 24 hours a day, 7 days a week, except the time for maintenance and repair works.

PART III CONDITIONS OF CONTRACT AND CONTRACT FORMS

SECTION 6 GENERAL CONDITIONS OF CONTRACT

SECTION 7 SPECIAL CONDITIONS OF CONTRACT

SECTION 8 PERFORMANCE SPECIFICATIONS AND DRAWINGS

SECTION 9 CONTRACT FORMS

SECTION 6 GENERAL CONDITIONS OF CONTRACT

TABLE OF CLAUSES

1. GENERAL CONDITIONS

1.1 Definitions	<p>Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:</p> <ul style="list-style-type: none">(a) The Adjudicator is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in Sub-Clause 8.2 hereunder.(b) “Activity Schedule” is the priced and completed list of items of Services to be performed by the Service Provider forming part of his Bid.(c) “Completion Date” means the date of completion of the Services by the Service Provider as certified by the Employer.(d) “Contract” means the Contract signed by the Parties, to which these General Conditions of Contract (GCC) are attached, together with all the documents listed in Clause 1 of such signed Contract.(e) “Contract Price” means the price to be paid for the performance of the Services, in accordance with Clause 6.(f) “Day works” means varied work inputs subject to payment on a time basis for the Service Provider’s employees and equipment, in addition to payments for associated materials and administration.(g) “Employer” means the party who employs the Service Provider.(h) “Foreign Currency” means any currency other than the currency of the Islamic Republic of Afghanistan.(i) “GCC” means these General Conditions of Contract.(j) “Government” means the Government of the Islamic Republic of Afghanistan.(k) “Local Currency” means the currency of the Islamic Republic of Afghanistan.(l) “Member,” in case the Service Provider consist of a joint
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	<p>venture of more than one entity, means any of these entities; “Members” means all these entities, and “Member in Charge” means the entity specified in the SCC to act on their behalf in exercising all the Service Provider’ rights and obligations towards the Employer under this Contract.</p> <p>(m) “Party” means the Employer or the Service Provider, as the case may be, and “Parties” means both of them.</p> <p>(n) “Personnel” means persons hired by the Service Provider or by any Subcontractor as employees and assigned to the performance of the Services or any part thereof.</p> <p>(o) “Service Provider” is a person or corporate body whose Bid to provide the Services has been accepted by the Employer.</p> <p>(p) “Service Provider’s Bid” means the completed bidding document submitted by the Service Provider to the Employer.</p> <p>(q) “SCC” means the Special Conditions of Contract by which the GCC may be amended or supplemented.</p> <p>(r) “Specifications” means the specifications of the service included in the bidding document submitted by the Service Provider to the Employer.</p> <p>(s) “Services” means the work to be performed by the Service Provider pursuant to this Contract, as described in Appendix A; and in the Specifications and Schedule of Activities included in the Service Provider’s Bid.</p> <p>(t) “Subcontractor” means any entity to which the Service Provider subcontracts any part of the Services in accordance with the provisions of Sub-Clauses 3.5 and 4.</p>
<p>1.2 Applicable Law</p>	<p>The Contract shall be interpreted in accordance with the laws of the Employer’s country, unless otherwise specified in the Special Conditions of Contract (SCC).</p>
<p>1.3 Language</p>	<p>This Contract has been executed in the language specified in the SCC, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.</p>

1.4 Notices	Any notice, request, or consent made pursuant to this Contract shall be in writing and shall be deemed to have been made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in the SCC .
1.5 Location	The Services shall be performed at such locations as are specified in Appendix A, in the specifications and, where the location of a particular task is not so specified, at such locations, whether in the Government's country or elsewhere, as the Employer may approve.
1.6 Authorized Representatives	Any action required or permitted to be taken, and any document required or permitted to be executed, under this Contract by the Employer or the Service Provider may be taken or executed by the officials specified in the SCC .
1.7 Inspection and Audit by the entity	The Service Provider shall permit the entity to inspect its accounts and records relating to the performance of the Services and to have them audited by auditors appointed by the entity, if so required by the entity.
1.8 Taxes and Duties	The Service Provider, Subcontractors, and their Personnel shall pay such taxes, duties, fees, and other impositions as may be levied under the Applicable Law, the amount of which is deemed to have been included in the Contract Price.
2. COMMENCEMENT, COMPLETION, MODIFICATION, AND TERMINATION OF CONTRACT	
2.1 Effectiveness of Contract	This Contract shall come into effect on the date the Contract is signed by both parties or such other later date as may be stated in the SCC .
Commencement of Services	
2.2.1 Program	Before commencement of the Services, the Service Provider shall submit to the Employer for approval a Program showing the general methods, arrangements, order and timing for all activities. The Services shall be carried out in accordance with the approved Program as updated.
2.2.2 Starting Date	The Service Provider shall start carrying out the Services thirty (30) days after the date the Contract becomes effective, or at such other date as may be specified in the SCC .
2.2 Intended	Unless terminated earlier pursuant to Sub-Clause 2.6, the

Completion Date	Service Provider shall complete the activities by the Intended Completion Date, as is specified in the SCC . If the Service Provider does not complete the activities by the Intended Completion Date, it shall be liable to pay liquidated damage as per Sub-Clause 3.8. In this case, the Completion Date will be the date of completion of all activities.
2.3 Modification	Modification of the terms and conditions of this Contract, including any modification of the scope of the Services or of the Contract Price, may only be made by written contract between the Parties and shall not be effective until the consent of the entity has been obtained.
<i>Force Majeure</i>	
2.5.1 Definition	For the purposes of this Contract, “ <i>Force Majeure</i> ” means an event which is beyond the reasonable control of a Party and which makes a Party’s performance of its obligations under the Contract impossible or so impractical as to be considered impossible under the circumstances.
2.5.2 No Breach of Contract	The failure of a Party to fulfill any of its obligations under the contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of <i>Force Majeure</i> , provided that the Party affected by such an event (a) has taken all reasonable precautions, due care and reasonable alternative measures in order to carry out the terms and conditions of this Contract, and (b) has informed the other Party as soon as possible about the occurrence of such an event.
2.5.3 Extension of Time	Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of <i>Force Majeure</i> .
2.5.4 Payments	During the period of their inability to perform the Services as a result of an event of <i>Force Majeure</i> , the Service Service Provider shall be entitled to continue to be paid under the terms of this Contract, as well as to be reimbursed for additional costs reasonably and necessarily incurred by them during such period for the purposes of the Services and in reactivating the Service after the end of such period.
Termination	
2.6.1 By the	The Employer may terminate this Contract, by not less than thirty (30) days’ written notice of termination to the Service

<p>Employer</p>	<p>Provider, to be given after the occurrence of any of the events specified in paragraphs (a) through (f) of this Sub-Clause 2.6.1 and sixty (60) days' in the case of the event referred to in (g).</p> <p>(a) if the Service Service Provider does not remedy a failure in the performance of its obligations under the Contract, within thirty (30) days after being notified or within any further period as the Employer may have subsequently approved in writing;</p> <p>(b) if the Service Provider become insolvent or bankrupt; if, as the result of <i>Force Majeure</i>, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days; or</p> <p>(c) if the Service Provider, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.</p> <p>For the purposes of this Sub-Clause:</p> <p>(i) "CORRUPT PRACTICE" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party⁶;</p> <p>(ii) "FRAUDULENT PRACTICE" is any actor omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party⁷ to obtain a financial or other benefit or to avoid an obligation;</p> <p>(iii) "COLLUSIVE PRACTICE" is an arrangement between two or more parties⁸ designed to achieve an improper purpose, including to influence improperly the actions of another party;</p> <p>(iv) "COERCIVE PRACTICE" is impairing or harming, or threatening to impair or harm, directly or indirectly,</p>
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⁶ "ANOTHER PARTY" refers to a public official acting in relation to the procurement process or contract execution. In this context, "PUBLIC OFFICIAL" includes Government staff and employees of other organisations taking or reviewing procurement decisions.

⁷ a "PARTY" refers to a public official; the terms "benefit" and "obligation" relate to the procurement process or contract execution; and the "act or omission" is intended to influence the procurement process or contract execution.

⁸ "PARTIES" refers to participants in the procurement process (including public officials) attempting to establish Bid prices at artificial, non competitive levels.

	<p>any party or the property of the party to influence improperly the actions of a party⁹;</p> <p>(v) “OBSTRUCTIVE PRACTICE” is:</p> <ul style="list-style-type: none"> • deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Government investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or • acts intended to materially impede the exercise of the Government’s inspection and audit rights.
<p>2.6.2 By the Service Service Provider</p>	<p>The Service Provider may terminate this Contract, by not less than thirty (30) days’ written notice to the Employer, such notice to be given after the occurrence of any of the events specified in paragraphs (a) and (b) of this Sub-Clause 2.6.2:</p> <p>(a) if the Employer fails to pay any monies due to the Service Provider pursuant to this Contract and not subject to dispute pursuant to Clause 7 within forty-five (45) days after receiving written notice from the Service Provider that such payment is overdue; or</p> <p>(b) if, as the result of <i>Force Majeure</i>, the Service Provider is unable to perform a material portion of the Services for a period of not less than sixty (60) days.</p>
<p>2.6.3 Payment Upon Termination</p>	<p>Upon termination of this Contract pursuant to Sub-Clauses 2.6.1 or 2.6.2, the Employer shall make the following payments to the Service Provider:</p> <p>(a) remuneration pursuant to Clause 6 for Services satisfactorily performed prior to the effective date of termination;</p> <p>(b) except in the case of termination pursuant to paragraphs (a), (b), (d), (e), (f) of Sub-Clause 2.6.1, reimbursement</p>

⁹ a “PARTY” refers to a participant in the procurement process or contract execution.

	<p>of any reasonable cost incident to the prompt and orderly termination of the Contract, including the cost of the return travel of the Personnel.</p>
<p>3. OBLIGATIONS OF THE SERVICE PROVIDER</p>	
<p>3.1 General</p>	<p>The Service Provider shall perform the Services in accordance with the Specifications and the Activity Schedule, and carry out its obligations with all due diligence, efficiency, and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe methods. The Service Provider shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the Employer, and shall at all times support and safeguard the Employer’s legitimate interests in any dealings with Subcontractors or third parties.</p>
<p>Conflict of Interests</p>	
<p>3.2.1 Service Provider Not to Benefit from Commissions and Discounts</p>	<p>The remuneration of the Service Provider pursuant to Clause 6 shall constitute the Service Provider’s sole remuneration in connection with this Contract or the Services, and the Service Provider shall not accept for their own benefit any trade commission, discount, or similar payment in connection with activities pursuant to this Contract or to the Services or in the discharge of their obligations under the Contract, and the Service Provider shall use their best efforts to ensure that the Personnel, any Subcontractors, and agents of either of them similarly shall not receive any such additional remuneration.</p>
<p>3.2.2 Service Provider and Affiliates Not to be Otherwise Interested in Project</p>	<p>The Service Provider agree that, during the term of this Contract and after its termination, the Service Provider and its affiliates, as well as any Subcontractor and any of its affiliates, shall be disqualified from providing goods, works, or Services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services.</p>
<p>3.2.3 Prohibition of Conflicting Activities</p>	<p>Neither the Service Provider nor its Subcontractors nor the Personnel shall engage, either directly or indirectly, in any of the following activities:</p> <p>(a) during the term of this Contract, any business or professional activities in the Government’s country which would conflict with the activities assigned to them under this Contract;</p>

	<p>(b) during the term of this Contract, neither the Service Provider nor their Subcontractors shall hire public employees in active duty or on any type of leave, to perform any activity under this Contract;</p> <p>(c) after the termination of this Contract, such other activities as may be specified in the SCC.</p>
3.2 Confidentiality	The Service Provider, its Subcontractors, and the Personnel of either of them shall not, either during the term or within two (2) years after the expiration of this Contract, disclose any proprietary or confidential information relating to the Project, the Services, this Contract, or the Employer’s business without the prior written consent of the Employer.
3.3 Insurance to be Taken Out by the Service Provider	The Service Provider (a) shall take out and maintain, and shall cause any Subcontractors to take out and maintain, at its (or the Subcontractors’, as the case may be) own cost but on terms and conditions approved by the Employer, insurance against the risks, and for the coverage, as shall be specified in the SCC ; and (b) at the Employer’s request, shall provide evidence to the Employer showing that such insurance has been taken out and maintained and that the current premiums have been paid.
3.4 Service Provider’s Actions Requiring Employer’s Prior Approval	<p>The Service Provider shall obtain the Employer’s prior approval in writing before taking any of the following actions:</p> <p>(a) entering into a subcontract for the performance of any part of the Services;</p> <p>(b) appointing such members of the Personnel not listed by name in Appendix C (“Key Personnel and Subcontractors”);</p> <p>(c) changing the Program of activities; and</p> <p>(d) any other action that may be specified in the SCC.</p>
3.5 Reporting Obligations	The Service Provider shall submit to the Employer the reports and documents specified in Appendix B in the form, in the numbers, and within the periods set forth in the said Appendix.
Liquidated Damages	
3.7.1 Payment of Liquidated	The Service Provider shall pay liquidated damages to the Employer at the rate per day stated in the SCC for each day

Damages	that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed the amount defined in the SCC . The Employer may deduct liquidated damages from payments due to the Service Provider. Payment of liquidated damages shall not affect the Service Provider's liabilities.
3.7.2 Correction for Overpayment	If the Intended Completion Date is extended after liquidated damages have been paid, the Employer shall correct any overpayment of liquidated damages by the Service Service Provider by adjusting the next payment certificate.
3.7.3 Lack of Performance Penalty	If the Service Provider has not corrected a Defect within the time specified in the Employer's notice, a penalty for Lack of performance will be paid by the Service Provider. The amount to be paid will be calculated as a percentage of the cost of having the Defect corrected, assessed as described in Sub-Clause 7.2 and specified in the SCC .
3.6 Performance Security	The Service Provider shall provide the Performance Security to the Employer no later than the date specified in the Letter of acceptance. The Performance Security shall be issued in an amount and form and by a bank acceptable to the Employer, and denominated in the types and proportions of the currencies in which the Contract Price is payable. The performance Security shall be valid until a date twenty-eight (28) days from the Completion Date of the Contract.
4. SERVICE PROVIDER'S PERSONNEL	
4.1 Description of Personnel	The titles, agreed job descriptions, minimum qualifications, and estimated periods of engagement in the carrying out of the Services of the Service Provider's Key Personnel are described in Appendix C. The Key Personnel and Subcontractors listed by title as well as by name in Appendix C are hereby approved by the Employer.
4.2	<p>(a) Except as the Employer may otherwise agree, no changes shall be made in the Key Personnel. If, for any reason beyond the reasonable control of the Service Provider, it becomes necessary to replace any of the Key Personnel, the Service Provider shall provide as a replacement a person of equivalent or better qualifications.</p> <p>(b) If the Employer finds that any of the Personnel have (i) committed serious misconduct or have been charged with having committed a criminal action, or (ii) have</p>

	<p>reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Service Provider shall, at the Employer's written request specifying the grounds thereof, provide as a replacement a person with qualifications and experience acceptable to the Employer.</p> <p>(c) The Service Provider shall have no claim for additional costs arising out of or incidental to any removal and/or replacement of Personnel.</p>
5. OBLIGATIONS OF THE EMPLOYER	
5.1 Assistance and Exemptions	The Employer shall use its best efforts to ensure that the Government shall provide the Service Provider such assistance and exemptions as specified in the SCC .
5.2 Change in the Applicable Law	If, after the date of this Contract, there is any change in the Applicable Law with respect to taxes and duties which increases or decreases the cost of the Services rendered by the Service Provider, then the remuneration and reimbursable expenses otherwise payable to the Service Provider under this Contract shall be increased or decreased accordingly by contract between the Parties, and corresponding adjustments shall be made to the amounts referred to in Sub-Clauses 6.2 (a) or (b), as the case may be.
5.3 Services and Facilities	The Employer shall make available to the Service Provider the Services and Facilities listed under Appendix F.
6. PAYMENTS TO THE SERVICE PROVIDER	
6.1 Lump-Sum Remuneration	The Service Provider's remuneration shall not exceed the Contract Price and shall be a fixed lump-sum including all Subcontractors' costs, and all other costs incurred by the Service Provider in carrying out the Services described in Appendix A. Except as provided in Sub-Clause 5.2, the Contract Price may only be increased above the amounts stated in Sub-Clause 6.2 if the Parties have agreed to additional payments in accordance with Sub-Clauses 2.4 and 6.3.
6.2 Contract Price	<p>(a) The price payable in local currency is set forth in the SCC.</p> <p>(b) The price payable in foreign currency is set forth in the SCC.</p>

<p>6.3 Payment for Additional Services</p>	<p>6.3.1 For the purpose of determining the remuneration due for additional Services as may be agreed under Sub-Clause 2.4, a breakdown of the lump-sum price is provided in Appendices D and E.</p>
<p>6.4 Terms and Conditions of Payment</p>	<p>Payments will be made to the Service Provider according to the payment schedule stated in the SCC. Unless otherwise stated in the SCC, the advance payment (Advance for Mobilization, Materials and Supplies) shall be made against the provision by the Service Provider of a bank guarantee for the same amount, and shall be valid for the period stated in the SCC. Any other payment shall be made after the conditions listed in the SCC for such payment have been met, and the Service Provider have submitted an invoice to the Employer specifying the amount due.</p>
<p>6.5 Interests on Delayed Payments</p>	<p>If the Employer has delayed payments beyond fifteen (15) days after the due date stated in the SCC, interest shall be paid to the Service Provider for each day of delay at the rate stated in the SCC.</p>
<p>6.6 Price Adjustment</p>	<p>6.6.1 Prices shall be adjusted for fluctuations in the cost of inputs only if provided for in the SCC. If so provided, the amounts certified in each payment certificate, after deducting for Advance Payment, shall be adjusted by applying the respective price adjustment factor to the payment amounts due in each currency. A separate formula of the type indicated below applies to each Contract currency:</p> $P_c = A_c + B_c \text{ Lmc/Loc} + C_c \text{ Imc/Ioc}$ <p>Where:</p> <p>P_c is the adjustment factor for the portion of the Contract Price payable in a specific currency “c”.</p> <p>A_c , B_c and C_c are coefficients specified in the SCC, representing: A_c the nonadjustable portion; B_c the adjustable portion relative to labor costs and C_c the adjustable portion for other inputs, of the Contract Price payable in that specific currency “c”; and</p> <p>Lmc is the index prevailing at the first day of the month of the corresponding invoice date and Loc is the index prevailing 28 days before Bid opening for labor; both in the specific currency “c”.</p>

	<p>Imc is the index prevailing at the first day of the month of the corresponding invoice date and Ioc is the index prevailing 28 days before Bid opening for other inputs payable; both in the specific currency “c”.</p> <p>If a price adjustment factor is applied to payments made in a currency other than the currency of the source of the index for a particular indexed input, a correction factor Z_o/Z_n will be applied to the respective component factor of pn for the formula of the relevant currency. Z_o is the number of units of currency of the country of the index, equivalent to one unit of the currency payment on the date of the base index, and Z_n is the corresponding number of such currency units on the date of the current index.</p> <p>6.6.2 If the value of the index is changed after it has been used in a calculation, the calculation shall be corrected and an adjustment made in the next payment certificate. The index value shall be deemed to take account of all changes in cost due to fluctuations in costs.</p>
<p>6.7 Day work</p>	<p>6.7.1 If applicable, the Day work rates in the Service Service Provider’s Bid shall be used for small additional amounts of Services only when the Employer has given written instructions in advance for additional services to be paid in that way.</p> <p>6.7.2 All work to be paid for as Day works shall be recorded by the Service Provider on forms approved by the Employer. Each completed form shall be verified and signed by the Employer representative as indicated in Sub-Clause 1.6 within two (2) days of the Services being performed.</p> <p>6.7.3 The Service Provider shall be paid for Dayworks subject to obtaining signed Dayworks forms as indicated in Sub-Clause 6.7.2.</p>
<p>7. QUALITY CONTROL</p>	
<p>7.1 Identifying Defects</p>	<p>The principle and modalities of Inspection of the Services by the Employer shall be as indicated in the SCC. The Employer shall check the Service Provider’s performance and notify him of any Defects that are found. Such checking shall not affect the Service Provider’s responsibilities. The Employer may instruct the Service Provider to search for a</p>

	Defect and to uncover and test any service that the Employer considers may have a Defect. Defect Liability Period is as defined in the SCC.
7.2 Correction of Defects and Lack of Performance Penalty	<p>(a) The Employer shall give notice to the Service Provider of any Defects before the end of the Contract. The Defects liability period shall be extended for as long as Defects remain to be corrected.</p> <p>(b) Every time notice a Defect is given, the Service Provider shall correct the notified Defect within the length of time specified by the Employer’s notice.</p> <p>(c) If the Service Provider has not corrected a Defect within the time specified in the Employer’s notice, the Employer will assess the cost of having the Defect corrected, the Service Service Provider will pay this amount, and a Penalty for Lack of Performance calculated as described in Sub-Clause 3.8.</p>
8. SETTLEMENT OF DISPUTES	
8.1 Amicable Settlement	The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.
8.2 Dispute Settlement	<p>8.2.1 If any dispute arises between the Employer and the Service Provider in connection with, or arising out of, the Contract or the provision of the Services, whether during carrying out the Services or after their completion, the matter shall be referred to the Adjudicator within fourteen (14) days of the notification of dis-contract of one party to the other.</p> <p>8.2.2 The Adjudicator shall give a decision in writing within twenty-eight (28) days of receipt of a notification of a dispute.</p> <p>8.2.3 The Adjudicator shall be paid by the hour at the rate specified in the BDS and SCC, together with reimbursable expenses of the types specified in the SCC, and the cost shall be divided equally between the Employer and the Service Provider, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within twenty-eight (28) days of the Adjudicator’s written decision. If neither party refers the dispute to arbitration within the above twenty-eight (28) days, the</p>

	<p>Adjudicator's decision will be final and binding.</p> <p>8.2.4 The arbitration shall be conducted in accordance with the arbitration procedure published by the institution named and in the place shown in the SCC.</p> <p>8.2.5 Should the Adjudicator resign or die, or should the Employer and the Service Provider agree that the Adjudicator is not functioning in accordance with the provisions of the Contract, a new Adjudicator will be jointly appointed by the Employer and the Service Provider. In case of dis-contract between the Employer and the Service Provider, within thirty (30) days, the Adjudicator shall be designated by the Appointing Authority designated in the SCC at the request of either party, within fourteen (14) days of receipt of such request.</p>
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SECTION 7 SPECIAL CONDITIONS OF CONTRACT

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
1.1(a)	The Adjudicator is: Will be specified by Ministry of Justice
1.1 (c)	The Completion Date is: 12 months after the signing of the contract
1.1 (d)	The Type of Contract Is: Lump Sum
1.1(e)	The contract price is: Will be specified later
1.1(g)	The Employer is: Ministry of Communication & Information Technology, Afghan Telecom Corporation
1.1(l)	The Member in Charge is: Will be specified after signing of the contract
1.1(o)	The Service Provider is: Will be specified later
1.2	The Applicable Law is: Laws of Islamic Republic of Afghanistan
1.3	The language is: English
1.4	<p>The addresses are:</p> <p>Employer: Ministry of Communication & IT, Afghan Telecom Corporation</p> <p>Attention:</p> <p>Facsimile:</p> <p>Email:</p> <p>Service Provider:</p> <p>Attention:</p> <p>Facsimile:</p> <p>Email:</p>
1.6	<p>The Authorized Representatives are:</p> <p>For the Employer:</p> <p>For the Service Provider:</p>
2.1	The date on which this Contract shall come into effect is: from the signing date of the contract
2.2.2	The Starting Date for the commencement of Services is: After Signing of the Contract
2.3	The Intended Completion Date is: One year (12 months) after signing date of the contract
3.2.3(c)	Activities prohibited after termination of this Contract are: Not Applicable

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
3.4	The risks and coverage by insurance shall be: <ul style="list-style-type: none"> (i) Third Party motor vehicle (ii) Third Party liability (iii) Employer’s liability and workers’ compensation (iv) Professional liability (v) Loss or damage to equipment and property
3.5(d)	The other actions are: Not Applicable
3.7.1	The liquidated damages rate is: [1/720 one of seven hundred twentieth part of the monthly amount for the relevant Service in the accounting month] /liquidated damage for per hour delay as per Contract monthly rate. The maximum amount of liquidated damages for the whole contract is: [10%] percent of the final Contract Price
3.7.3	The percentage to be used for the calculation of Lack of performance Penalty(ies) is: 100% of damages caused by Service Provider
3.8	The performance Security shall be valid until a date twenty-eight (28) days from the Completion Date of the Contract.
5.1	The assistance and exemptions provided to the Service Provider are: Not Applicable
6.2(a)	The amount in local currency is: Will be specified later
6.2(b)	The amount in foreign currency or currencies is: Will be specified later
6.4	Payments shall be made according to the following schedule: as per Payments for the services, Activity Schedule, Section 5, Part II
6.5	The interest rate is: Not Applicable.
6.6.1	Price adjustment is: Not Applicable
7.1	The principle and modalities of inspection of the Services by the Employer are as follows: it shall be as per measurement and reporting procedure, Activity Schedule, Section 5, Part II The Defects Liability Period is: According to the TOR the service provider is responsible for all defects in entire contract period. Restoration time of service’ defects is depended on type of the issue.
8.2.3	The Adjudicator is [who will be assigned by Ministry of Justice] . will be paid a rate of [will be specified by Ministry of Justice] per hour of work The following reimbursable expenses are recognized:
8.2.4	Disputes shall be settled by arbitration in accordance with the following

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>provisions:</p> <ol style="list-style-type: none"> 1. <u>Selection of Arbitrators.</u> Each dispute submitted by a Party to arbitration shall be heard by a sole arbitrator or an arbitration panel composed of three arbitrators, in accordance with the following provisions: <ol style="list-style-type: none"> (a) Where the Parties agree that the dispute concerns a technical matter, they may agree to appoint a sole arbitrator or, failing contract on the identity of such sole arbitrator within thirty (30) working days after receipt by the other Party of the proposal of a name for such an appointment by the Party who initiated the proceedings, either Party may apply to Federation Internationals des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland for a list of not fewer than five nominees and, on receipt of such list, the Parties shall alternately strike names therefrom, and the last remaining nominee on the list shall be the sole arbitrator for the matter in dispute. If the last remaining nominee has not been determined in this manner within sixty (60) working days of the date of the list, Federation Internationale des Ingenieurs-Conseil (FIDIC) of Lausanne, Switzerland shall appoint, upon the request of either Party and from such list or otherwise, a sole arbitrator for the matter in dispute. (b) Where the Parties do not agree that the dispute concerns a technical matter, the Client and the Consultant shall each appoint one arbitrator, and these two arbitrators shall jointly appoint a third arbitrator, who shall chair the arbitration panel. If the arbitrators named by the Parties do not succeed in appointing a third arbitrator within thirty (30) working days after the latter of the two arbitrators named by the Parties has been appointed, the third arbitrator shall, at the request of either Party, be appointed by the Secretary General of the Permanent Court of Arbitration, The Hague
8.2.5	<ol style="list-style-type: none"> (c) If, in a dispute subject to Clause SC 8.2 1. (b), one Party fails to appoint its arbitrator within thirty (30) working days after the other Party has appointed its arbitrator, the Party which has named an arbitrator may apply to the Secretary General of the Permanent Court of Arbitration, The Hague to appoint a sole arbitrator for the matter in dispute, and the arbitrator appointed pursuant to such application shall be the sole arbitrator for that dispute. 2. <u>Rules of Procedure.</u> Except as stated herein, arbitration proceedings shall be conducted in accordance with the rules of procedure for arbitration of the United Nations Commission on International Trade Law (UNCITRAL) as in force on the date of this Contract. 3. <u>Substitute Arbitrators.</u> If for any reason an arbitrator is unable to

Number of GCC Clause	Amendments of, and Supplements to, Clauses in the General Conditions of Contract
	<p>perform his function, a substitute shall be appointed in the same manner as the original arbitrator.</p> <p>4. <u>Nationality and Qualifications of Arbitrators.</u> The sole arbitrator or the third arbitrator appointed pursuant to paragraphs (a) through (c) of Clause SC 8.2 1 hereof shall be an internationally recognized legal or technical expert with extensive experience in relation to the matter in dispute and shall not be a national of the Consultant’s home country [or of the home country of any of their Members or Parties] or of the Government’s country. For the purposes of this Clause, “home country” means any of:</p> <ul style="list-style-type: none"> (a) the country of incorporation of the Consultant [or of any of their Members or Parties]; or (b) the country in which the Consultant’s [or any of their Members’ or Parties’] principal place of business is located; or (c) the country of nationality of a majority of the Consultant’s [or of any Members’ or Parties’] shareholders; or (d) the country of nationality of the Sub-Consultants concerned, where the dispute involves a subcontract.
	<p>5. <u>Miscellaneous.</u> In any arbitration proceeding hereunder:</p> <ul style="list-style-type: none"> (a) proceedings shall, unless otherwise agreed by the Parties, be held in Dubai, UAE; (b) The law governing the Contract shall be the laws of Afghanistan. (c) the English language shall be the official language for all purposes; and (d) the decision of the sole arbitrator or of a majority of the arbitrators (or of the third arbitrator if there is no such majority) shall be final and binding and shall be enforceable in any court of competent jurisdiction, and the Parties hereby waive any objections to or claims of immunity in respect of such enforcement.

SECTION 8 PERFORMANCE SPECIFICATIONS AND DRAWINGS

[Describe Outputs and Performances, rather than Inputs, wherever possible.]

SECTION 9 CONTRACT FORMS
TABLE OF FORMS

Letter of Acceptance **Form/07**

Performance Bank Guarantee (Conditional) **Form/08**

Performance Bank Guarantee (Unconditional) **Form/09**

Form of Contract **Form/10**

Bank Guarantee for Advance Payment **Form/11**

NCS Form/07
LETTER OF ACCEPTANCE
[Letterhead paper of the Employer]

Reference No:

Date: ()

From:

Address:

To:

Address :)

This letter of acceptance is issued pursuant to article 23 of procurement Law and Rule number 85 of Procurement Procedures and thereby you are informed that your offer presented on () for the procurement of () with the total value of (), as verified in accordance with the procedures for the bidders of the concerning bidding documents, has been accepted by this entity.

Therefore, you are requested to submit the contract performance guarantee, as indicated in concerning bidding documents and is indicated below, in line with above-stated articles of the procurement law and procedures and the provisions of article 28 of the law and Rule no. 78 of the Procurement Procedures, within 10 calendar days from the date of issue of this memo. Otherwise, your bid guarantee shall not be released, according to the provisions of article 29 of the Procurement Law. For further information refer to the following table:

Procurement/Contract Specifications:
Procurement No:
Contract Total Value:
Type of Contract Performance Guarantee:
Contract Performance Guarantee Amount:
Contract Signing Date:
Contract Signing Location:

Full Name:

Job:

Signature¹⁰ and date:

NCS Form/08

PERFORMANCE BANK GUARANTEE (CONDITIONAL)

(Not Applicable)

This Contract is made on the _____ day _____ between _____ hereinafter called “THE GUARANTOR”, of the one part and _____ hereinafter called “THE EMPLOYER” of the other part.

Whereas,

- (1) This Contract is supplemental to a contract, hereinafter called “THE CONTRACT”, made between _____ of _____, hereinafter called “THE SERVICE SERVICE PROVIDER”, of the one part and the Employer of the other part whereby the Service Service Provider agreed and undertook to execute the Services of _____ for the sum of _____ being the Contract Price; and
- (2) The Guarantor has agreed to guarantee the due performance of the Contract in the manner hereinafter appearing.

Now therefore the Guarantor hereby agrees with the Employer that upon receipt of:

- (1) a written notice to the Guarantor from the Service Service Provider, or
- (2) a written notice to the Guarantor from the Adjudicator, or
- (3) a binding arbitration or Court award confirming that the amount of the Guarantee is payable to the Employer,

the Guarantor will indemnify and pay the Employer the sum of _____, _____ such sum being payable in the types and proportions of currencies in which the Contract Price is payable, provided that the Employer or his authorized representative has notified the Guarantor to that effect and has made a claim against the Guarantor not later than the date of issue of the Defects Liability Certificate.

The Guarantor shall not be discharged or released from his Guarantee by an arrangement between the Service Service Provider and the Employer, with or without the consent of the Guarantor, or by any alteration in the obligations undertaken by the Service Service Provider, or by any forbearance on the part of the Service Service Provider, whether as to the payment, time, performance or otherwise, and any notice to the Guarantor of any such arrangement, alteration, or forbearance is hereby expressly waived.

Signed by

for and on behalf of the Guarantor in the presence of

Signed by

for and on behalf of the Employer in the presence of

NCS Form/09

PERFORMANCE BANK GUARANTEE (UNCONDITIONAL)

Applicable

To:

Whereas _____, hereinafter called "THE SERVICE SERVICE PROVIDER", has undertaken, in pursuance of Contract No. _____ dated _____ to execute _____, hereinafter called "THE CONTRACT";

And whereas it has been stipulated by you in the said Contract that the Service Service Provider shall furnish you with a Bank Guarantee by a recognized bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

And whereas we have agreed to give the Service Service Provider such a Bank Guarantee;

Now therefore we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Service Service Provider, up to a total of _____, _____, such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ as aforesaid without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of your demanding the said debt from the Service Service Provider before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Services to be performed there under or of any of the Contract documents which may be made between you and the Service Service Provider shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall be valid until a date twenty-eight (28) days from the date of issue of the Certificate of Completion.

Signature and seal of the Guarantor:

Name of Bank:

Address:

Date:

NCS Form/10

FORM OF CONTRACT

[letterhead paper of the Employer]

UNIT PRICE REMUNERATION

THIS CONTRACT, hereinafter called the "CONTRACT", is made the *[day]* day of the month of *[month]*, *[year]*, between, on the one hand, *[name of the Employer]*, hereinafter called the "EMPLOYER", and, on the other hand, *[name of Service Service Provider]*, hereinafter called the "SERVICE SERVICE PROVIDER".

*[NOTE: In the text below text in brackets is optional; all notes should be deleted in final text. If the Service Service Provider consist of more than one entity, the above should be partially amended to read as follows: "...on the other hand, a joint venture consisting of the following entities, each of which will be jointly and severally liable to the Employer for all the Service Service Provider's obligations under this Contract, namely, *[name of Service Service Provider]* and *[name of Service Service Provider]*, hereinafter called the "Service Service Provider".]*

WHEREAS

- (a) the Employer has requested the Service Service Provider to provide certain Services as defined in the General Conditions of Contract attached to this Contract, hereinafter called the "SERVICES";
- (b) the Service Service Provider, having represented to the Employer that they have the required professional skills, and personnel and technical resources, have agreed to provide the Services on the terms and conditions set forth in this Contract at a contract price of *[Insert the price amount in words and figures]*;
- (c) the Employer guarantees that adequate public funds have been budgeted and allotted and are also available for managing the procurement proceedings toward the cost of the project to eligible payments under the contract;

NOW THEREFORE the parties hereto hereby agree as follows:

1. The following documents shall be deemed to form and be read and construed as part of this Contract, and the priority of the documents shall be as follows:

- (a) the Letter of Acceptance;
- (b) the Service Service Provider's Bid;
- (c) the Special Conditions of Contract;
- (d) the General Conditions of Contract;
- (e) the Specifications;
- (f) the Priced Activity Schedule; and
- (g) The following Appendices: *[NOTE: If any of these Appendices are not used, the words "NOT USED" should be inserted below next to the title of the Appendix and on the sheet attached hereto carrying the title of that Appendix].*

- Appendix A: Description of the Services
- Appendix B: Schedule of Payments
- Appendix C: Key Personnel and Subcontractors
- Appendix D: Breakdown of Contract Price in Foreign Currency
- Appendix E: Breakdown of Contract Price in Local Currency
- Appendix F: Services and Facilities Provided by the Employer

2. The mutual rights and obligations of the Employer and the Service Service Provider shall be as set forth in the Contract, in particular:
- (a) the Service Service Provider shall carry out the Services in accordance with the provisions of the Contract; and
 - (b) the Employer shall make payments to the Service Service Provider in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written.

For and on behalf of *[name of Employer]*

[Authorized Representative]

For and on behalf of *[name of Service Service Provider]*

[Authorized Representative]

[NOTE: If the Service Service Provider consists of more than one entity, all these entities should appear as signatories, e.g., in the following manner:]

For and on behalf of each of the Members of the Service Service Provider

[name of member]

[Authorized Representative]

[name of member]

[Authorized Representative]

NCS Form/11

BANK GUARANTEE FOR ADVANCE PAYMENT

To:

In accordance with the provisions of the Conditions of Contract, Sub-Clause 6.4 “Terms and Conditions of Payment” of the above-mentioned Contract, _____, hereinafter called “THE SERVICE SERVICE PROVIDER”, shall deposit with _____ a Bank Guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of _____

We, the _____, as instructed by the Service Service Provider, agree unconditionally and irrevocably to guarantee as primary obligator and not as Surety merely, the payment to _____ on his first demand without whatsoever right of objection on our part and without his first claim to the Service Service Provider, in the amount not exceeding _____

We further agree that no change or addition to or other modification of the terms of the Contract or of Services to be performed there under or of any of the Contract documents which may be made between _____ and the Service Service Provider, shall in any way release us from any liability under this Guarantee, and we hereby waive notice of any such change, addition, or modification.

This Guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until _____ receives full repayment of the same amount from the Service Service Provider.

Yours truly,

Signature and seal:

Name of Bank/Financial Institution: