



Request for Quotation (RFQ)

Issued on **07 December 2020**

Millennium Challenge Account Nepal
on behalf of
The Government of Nepal
funded by
The United States of America
Through
The Millennium Challenge Corporation

For

**Construction of Boundary Wall for
Ratmate Substation (Barbed Wire
Fence)**

Ref No: **MCA-N/ETP/SH/035**



MILLENNIUM CHALLENGE ACCOUNT NEPAL (MCA-NEPAL)

Letter of Invitation Requesting Quotation for Construction of Boundary Wall for Ratmate Substation (Barbed Wire Fence)

Ref: MCA-N/ETP/SH/035

Kathmandu, Nepal

07 December 2020

1. The Federal Democratic Republic of Nepal, acting through the Ministry of Finance (the “Government”) and the United States of America, acting through the Millennium Challenge Corporation (“MCC”), entered into a Millennium Challenge Compact on September 14, 2017, providing for a grant of up to FIVE HUNDRED MILLION United States Dollars (US \$500,000,000) to advance economic growth and reduce poverty in Nepal (the “Compact”), to which the Government will contribute up to US\$130,000,000 for a program to reduce poverty through economic growth in Nepal. The Government intends to apply parts of the proceeds of the funds to payments for contracts for goods, works and services. MCC is a U.S. government agency focused on assisting countries dedicated to good governance, economic freedom, and investments in people.
2. The Compact includes additional investment from the Government of approximately US\$130 million for a total of US\$630 million. It includes two projects: (i) construction of about 300 kilometers of 400kV electricity transmission lines, three substations, and technical assistance for the power sector; and (ii) technical assistance to improve the road maintenance regime and road maintenance works on about 300 kilometers of the strategic road network. The program would include the procurement of contractors and consultants for design, construction and supervision of electricity lines and substations, road maintenance works, including a variety of technical services, equipment and construction works in different geographic locations within Nepal. These contracts will be competed through open international procurement procedures.
3. This Request for Quotations, the RFQ, follows the General Procurement Notice that appeared in dgMarket, UNDB Online and MCA-Nepal web site on 6 October 2020.
4. Millennium Challenge Account Nepal (MCA-Nepal) intends to hire a contractor for the “Construction of Boundary Wall for Ratmate Substation (Barbed Wire Fence)” to secure the land for Ratmate Substation in Nuwakot District.

5. Interested bidders are invited to submit their price quotations. The detailed Bills of Quantities, Technical Specifications are indicated in Annex 2 and Annex 3 respectively. The Purpose of Bills of Quantity is to access the bidders' price to carry out assignment as per Technical Specification and Conditions of Contract and make payment, there will be no change in Bills of Quantity after design by the Bidder and price will be fixed for the Contract duration. The Bidders are requested to quote for complete requirements stated under Bills of Quantities, Technical Specification and Drawings and as per provision of the Conditions of Contract.
6. The site of works is located at Belkotgadhi Municipality, ward no. 7, Ratmate Substation in Nuwakot District.
7. The estimated budget for this assignment is NPR8,193,545.00 (Excluding VAT and Contingencies).
8. The offered price under Bill of Quantity should include all costs required to complete the Works as per Technical Specification, Drawings and Conditions of Contract. There will be no price negotiations however if found necessary the shortfall identified in the Quotation may be rectified without changing the Quoted Price.
9. **Site Visit/Pre-Bid Meeting:** The bidders are strongly advised to visit and examine the Site of Works. For purpose of the procurement process, an organized visit is scheduled to begin at 11:00am on **21 December 2020** from the office of ward number 7 of Belkotgadhi Municipality. For logistic purposes, please confirm your availability for the Site Visit to the email MCANepalPA@Cardno.com Cc to sanjay.sharma@mcanp.org at least three working day ahead of above mentioned date. The prospective bidder intended to participate in the site visit should indemnify MCA-Nepal against any health or hazard risk. In case, you plan to attend, you can meet at above mentioned location at stated date and time and contact Mr. Keshab Neupane (Environment and Social Performance Community Assistant, ESPCA in short, Mobile Phone Number: 985-123-0231). The costs of visiting the Site shall be on Bidder's account. MCA-Nepal will conduct a pre-bid meeting on **23 December 2020** starting at **10:00am** (local time) via web conference. However, web conference depends on availability and reliability of the internet. The Pre-Proposal Conference web link is: <https://us02web.zoom.us/meeting/register/tZEIc-mrpzgiGtPZ2iD1YwcNtQOXwA1HZE5q> and a bidder can also join the pre-bid meeting with the meeting ID 858 4039 3907
Attendance is strongly advised for all prospective Consultants or their representatives but is not mandatory.
10. **Clarifications:** Any clarifications needed shall be submitted in written not later than **28 December 2020** by 5:00pm Nepal Time. MCA-Nepal will consolidate all submitted requests for clarifications and will issue a Q&A document not later than **04 January 2021**.

11. **Performance Security:** A Performance Security equal to five percent (5%) of the contract Price, in the form of an unconditional bank guarantee from “A” class Commercial Bank will be required from the awarded Contractor within **14 (Fourteen) days** of ‘notification of award’ and sign the contract. This Performance Security **shall be valid until the date 28 days** beyond the end date of the Defects Liability Period. In case, the bidder fails to provide the Performance Security within 14 days, MCA-Nepal may terminate the Contract without any notice and without incurring any liability under the Contract and proceed with next ranked bidder. In case the Notice to Proceed is issued later than one month after Contract Signature, the MCA-Nepal will pay for the extension of the Performance Security, otherwise the winning bidder will have to include cost of performance security in their bid price..
12. **Retention:** Retention shall be deducted from each payment in the amount of ten (10%) per cent of each payment to the Contractor. On completion of the Works, 50% of the total amount retained shall be repaid to the Contractor and the remaining 50% upon expiration of the Defects Liability Period upon the Contract Manager has certified that all Defects notified by the Contract Manager to the Contractor before the end of the Defects Liability Period have been corrected.
13. **Completion Time:** The Works shall be completed in maximum one hundred and fifty (150) calendar days after mobilization period. The Site Possession Date will be defined by MCA-Nepal (Contract Manager) and timely notified to the Contractor.
14. **Defects Liability Period:** The Defects Liability Period is 365 calendar days from acceptance of the Works.
15. **Payment Schedule is as follows:**
 - i. The Price Schedule shall contain priced items for the Works to be performed by the Contractor. The unpriced Price Schedule is attached herewith for bidder to quote their Price for Design and Construction of the Works. A Lump-Sum payment schedule is provided under Conditions of Contract that will be used for payment purpose. Conditions in Annex 4 Contract Form will apply.
 - ii. Prices shall be in Nepalese Rupees (NPR).
16. Quotations should be presented on the standard form indicated in Annex 1 and 2 to this RFQ.
17. **Evaluation of Quotations and Award of Contract:** The lowest priced quotation/bid, based on arithmetic correction (if any) will be reviewed to check compliance with the requirements set in this Request for Quotation document and MCC Program Procurement Guidelines; if the quotation is substantially compliant to the requirement of this RFQ, the contract will be awarded to the lowest responsive bidder. If the lowest priced quote is not compliant, the MCA-Nepal will review the second lowest/second-best quotation and so on and so forth. A

quotation is not substantially responsive if it contains material deviations or reservations to the terms, conditions, requirement of Request for Quotation (RFQ). A non-responsive quotation shall not be considered for recommendation of award.

During the evaluation process the Bid Review Panel (BRP) will carry out arithmetic correction for only those bids who have quoted for all the items. Incomplete quote shall be rejected and shall not be considered for award.

18. A price reasonableness assessment will be conducted. The quotation shall be rejected if the price is found to be unreasonably high or low.

19. Bidder shall submit with their quotations copies of the following documents:

- a. Firm/ Company Registration;
- b. License for Construction business
- a. VAT Registration;
- b. Power of Attorney to sign the quotation
- c. Tax Clearance Certificate up to the last Fiscal Year (applicable to Nepalese Firm/Company only)
- d. COVID19 Risk Management Plan as per MCA-Nepal Template and Guidance**

20. Qualifications of the Contractor:

- i. Minimum of Two (2) years' experience in Civil Construction.
- ii. Demonstration of similar civil work experience as a prime contractor in the construction/renovation of at least one work of value NPR6,550,000 over the five years as evidenced by a client's certificate of completion.
- iii. Provide evidence of availability of financial resources to successfully complete the works in the amount of NPR two (2) million. Otherwise, your quotation will not be considered further.
- iv. The contractor shall have key personnel to manage the design and construction of works on behalf of contractor. The candidate (key Personnel/Site Engineer/Sub-Engineer) shall have at least: (1) Two (2) years' experience construction supervision of Civil works, and (2) a at least Diploma (Intermediate Level) in Civil Engineering or equivalent. The contractor shall submit the Curriculum vitae (CV) of this candidate. The bidder must also submit qualification of person or firm who will assist them in designing the boundary wall and the proposed designer should have minimum two experience in design of civil works.

21. In evaluating the quotations, the Purchaser/MCA-Nepal will adjust for any arithmetical errors as follows:
- a. where there is a discrepancy between rate in figures and in words, the rate in words will govern;
 - b. where is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern; and
 - c. If you refuse to accept the correction, your quotation will be rejected
22. A quotation is not substantially responsive if it contains material deviations or reservations to the terms, conditions, and specifications in this Request for Quotation, and it will not be considered further. The Employer will evaluate and compare only the quotations determined to be substantially responsive.
23. Bidders may challenge the results of a procurement only according to the rules established in the Bid Challenge System developed by the MCA-Nepal and approved by MCC. The rules and provisions of the Bid Challenge System are as published on the MCA-Nepal's website at <https://mcanp.org/procurement/bid-challenge-system/>.
24. **Validity of Quotations:** Quotations should be valid for a period of 90 days from the date of deadline of submission of quotations indicated in paragraph 31 below.
25. **Liquidated Damages:** If the Supplier fails to complete the works within the specified period in the Contract, MCA-Nepal may, without prejudice to its other remedies under the Contract, deduct from the Contract price, as liquidated damages, a sum equivalent to half of a percent (0.5%) of the Contract price for each week of delay in completion of the Works, until actual completion of the Works, up to a maximum deduction of ten percent (10%) of the Contract value.
26. **Payments:** The payment will be made within thirty (30) days after acceptance of work completed by the contract manager and issuance of partial/complete completion of work and receipt of a valid invoice. The Contractor will be paid in accordance with Payment Schedule.
27. MCA-Nepal may cancel this procurement process at any time without incurring cost or liability to any Supplier, and without providing any justification for said action.
28. Please submit your price quotation -signed by an authorized representative via the Dropbox link provided below, with the name of the uploaded file as follows: "**Your**

Company Name - Construction of Boundary Wall for Ratmate Substation (Barbed wire fence)".

29. The File request link (Dropbox link) for **submission of quotations is as follows:**
<https://www.dropbox.com/request/MgTOYwIAdhxP0rTjCyhk>

Instruction for uploading your submission:

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

Done

30. Please note that the provided **Dropbox link** will expire on the **deadline for submission** indicated in clause **31** below, consequently no late quotations will be received.

31. Deadline for submission of quotations is **14 January 2021, at 15:00 hours local time in Kathmandu, Nepal (GMT+5:45).**

32. **MCA-Nepal** reserves the right to reject any or all applications or offers, waive any defect or informality therein, and accept the offer which it deems most advantageous to the institution.

Yours sincerely,

For MCA-Nepal:

Khadga Bahadur Bisht

Executive Director

MCA-Nepal

Yak and Yeti Complex, Kathmandu

Annexes:

1. Form of Quotation
2. Bills of Quantities

3. Scope of Work (include Technical Specification) and COVID-19 Contractors Risk Mitigation Plan Template
4. Drawings
5. Contract Form

ANNEX 1: FORM OF QUOTATION

[date]

RFQ NO.:MCA-N/ETP/SH/035

Name of Contract: Construction of Boundary Wall for Ratmate Substation (Barbed wire fence)

To: Millennium Challenge Account Nepal (MCA-Nepal)

Address: Yak and Yeti Hotel Complex, Lal Durbar Convention Center, Second Floor, Durbar Marg, Kathmandu, Nepal

Ladies and Gentlemen:

We, the undersigned, declare and certify that:

1. We have examined, and we have no reservations to the RFQ Document.
2. In accordance with the Quotation documents, Bills of Quantities, Technical Specification, Drawings, Scope of Work, COVID-19 Contractors Risk Mitigation Plan, Conditions of Contract and Addenda Nos. **[insert Addenda Nos.]** for the execution of the above-named Works, we offer to construct and install such Works and remedy any defects therein in conformity with the Contract, Bills of Quantities, Technical Specification, Drawings, Conditions of Contract, for the sum of **[insert amount in numbers and words]**.
3. We undertake, if our Quotation is accepted, to obtain a Performance Security in accordance with the RFQ documents, and commence the Works as soon as is reasonably possible after the receipt of the Engineer's notice to commence, and to complete the whole of the Works by the Intended Completion Date.
4. Our Bid shall be valid for a period of **90 days** from the date fixed for the bid submission deadline in accordance with the RFQ documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.
5. Unless and until a formal Contract is prepared and executed, this Quotation, together with your written acceptance thereof in the form of a signed Letter of Acceptance/Notification of Award delivered by you to us, shall constitute a binding contract between us.
6. We understand that you are not bound to accept the lowest or any Quotation you receive.
7. We are not participating, as a Bidder in more than one bid in this bidding process.
8. We have no conflict of interest in the proposed procurement proceedings and we have not been punished for an offense relating to the concerned profession or business.
9. We accept that any arithmetic error in our quotation which will be corrected by MCA-Nepal

10. We understand Quotations will be evaluated under shopping method in accordance with the procedures set out in the MCC Program Procurement Guidelines

Dated this _____ day of _____ 20 _____

Signature _____ In the capacity of _____
Duly authorized to sign Bids for and on behalf of _____

[in block letters or typed]

Address: _____

ANNEX 2: BILLS OF QUANTITY

S.N.	Description of Items	Unit	Quantity	Unit Rate in NPR		Amount (NPR.)
				in Figure	in word	
1	Ground Survey, preparation of plan, profile and working drawing of boundary wall/fence and gate including calculation of benching volume with supportive drawings and layout of fence along the approximately 2.1km perimeter of Substation as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	Lump Sum	1.00			
2	Earthwork in excavation Works : Earth work excavation for foundations for MS post including strutting, bracing sheeting & disposal up to 10m & lift up to 1.5m all complete as per site condition along the perimeter of Substation as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	cu.m.	514.00			
3	Earth filling Works: Providing and filling in MS post foundation and any other fills with pit gravel of approved quality and size packed with sand including watering, hammering and compaction as specified along the perimeter of substation as per Scope of Work/Specification, Drawings attached and Conditions of Contract..	cu.m.	425.00			

S.N.	Description of Items	Unit	Quantity	Unit Rate in NPR		Amount (NPR.)
				in Figure	in word	
4	Concrete Works M15 (1:2:4) including Providing & placing mechanically mixed cement concrete 1:2:4 (cement, sand, aggregate) including compaction, curing, testing & lead up to 30m etc. all complete as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	cu.m.	92.00			
5	Lean concrete work M10 (1:3:6) including providing and placing mechanically mixed on ratio 1:3:6 (cement, sand & aggregate) including levelling & all complete as per Scope of Work/Specification, Drawings attached and Conditions of Contract..	cum	20.00			
6	Fabrication and installation of fencing with 75*75 mm square hollow section post of 2.8mm thickness in spacing of 3m c/c as per Scope of Work/Specification, Drawings attached and Conditions of Contract..	kg	13,865.00			
7	Fabrication of ISA 40*40*4 mmand welding with square hollow section of 75*75mm as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	kg	1159.00			

S.N.	Description of Items	Unit	Quantity	Unit Rate in NPR		Amount (NPR.)
				in Figure	in word	
8	Construction of Main gate and side gate including installation of 100x100 mm post framing of hollow section pipes, GI wire mesh, welding, supports and paints as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	lot	1.00			
9	Rebar Works: Cutting, Bending and Placing of reinforcement bars as per drawings and executing the work as per Scope of Work/Specification and Conditions of Contract	MT	4.75			
10	Barbed wire fencing work having 10 Horizontal Rows and two diagonal of 12 Gauge Barbed Wire connecting to the post and angle section as per the Specifications and drawings. (Include per meter unit rate of 10 rows horizontal and two diagonal barbed wire fencing work) as per Scope of Work/Specification, Drawings attached and Conditions of Contract.	Running meter of fence	2199.00			
11	Formwork work: Preparing, Placing s as per Scope of Work/Specification, Drawings attached and Conditions of Contract. and dismantling after work.	Sq.m.	853.00			
12	Miscellaneous Works					

S.N.	Description of Items	Unit	Quantity	Unit Rate in NPR		Amount (NPR.)
				in Figure	in word	
12.1	Site preparation works including clearing and cleaning of site before and after finishing the job and other works as instructed by the site in charge.	Lot	1.00			
12.2	Cutting, benching and levelling of all types of soil including disposal up to 200m lead along the perimeter of Substation	cum	300.00			
12.3	Filling of ground with proper compaction along the perimeter of Substation	cum	200.00			
12.4	Safety sign board approximately 50 nos for fence and gate as per specifications	Nos	50.00			
12.5	COVID19 Risk Mitigation Plan as per MCA-Nepal Guidance	Lot/Lump Sum	1.00			
12.6	Insurance as per requirement of the Conditions of Contract	Lump Sum	1.00			
				Total Amount		-
				VAT @ 13%		
				Total with VAT		-

Note:

1. Evaluation and Comparison of bids shall be carried out excluding VAT.
2. The price includes all costs needed as per the requirements of the RFQ,
3. Day means calendar day and a week equals 7 days.
4. Our Quotation is valid for 90 days from the deadline of submission mentioned in this RFQ. The unit rate shall be **fixed for contract period.**

We are attaching herewith the documentary proof in support as authorization for the person signing the quotation (Attach Letter of Authorization Accordingly).

Name of the Person Authorized to Sign the Quotation: _____

Position of the signatory in Organization: _____

Name of Organization: _____

Signature of the Authorized Person: _____

Date: _____

Physical Address: _____

Email id: _____

Phone/Mobile Number: _____

Equipment Information

In addition, for information purpose the bidders are requested to provide the information on availability of the below mentioned equipment. In case, the bidders will not provide this information, the bidder will be requested to clarify/indicate the same during evaluation of the quote through clarification request.

Name of the Equipment	Number	State Availability in Yes or No
Concrete Mixture	1 No.	
Vibrators	2 No.	
Total Station	1 No.	

Note: Please note that the winning bidder/Contractor will be responsible for providing all required equipment necessary to carry out the works as per the requirement stated under Scope of Work and Condition of Contract.

**ANNEX 3: SCOPE OF WORK (INCLUDE TECHNICAL SPECIFICATION) AND COVID-19
CONTRACTORS RISK MITIGATION PLAN TEMPLATE**



Scope of work 24
November 2020.docx



COVID-19
Contractors Risk Mitig

ANNEX 4: DRAWINGS



Drawing.pdf

ANNEX 5: CONTRACT FORM



Works Contract

Construction of Boundary Wall for Ratmate Substation (Barbed wire fence)

(Contract No: MCA-Nepal/ETP/SH/035)

Between

**Millennium Challenge Account Nepal (MCA-
Nepal)**

And

XXXXXXXX

Date: XX YYYY 2020



MILLENNIUM CHALLENGE ACCOUNT NEPAL (MCA-NEPAL)

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Works Contract

This WORKS CONTRACT FOR **Construction of Boundary Wall for Ratmate Substation (Barbed wire fence)** (“this Contract”) is made as of **xx February 2021**, between **Millennium Challenge Account Nepal** (“MCA-Nepal”), with address at Yak and Yeti Hotel, Durbar Marg, Kathmandu, Nepal and **XXXX** (the “Contractor”), with address at XXXXX.

RECITALS

WHEREAS:

(a) The Federal Democratic Republic of Nepal, acting through the Ministry of Finance (the “Government”) and the United States of America, acting through the Millennium Challenge Corporation (“MCC”), entered into a Millennium Challenge Compact on September 14, 2017, providing for a grant of up to FIVE HUNDRED MILLION United States Dollars (US \$500,000,000) to advance economic growth and reduce poverty in Nepal (the “Compact”), to which the Government will contribute up to US\$130,000,000 for a program to reduce poverty through economic growth in Nepal. The Government intends to apply parts of the proceeds of the funds to payments for contracts for goods, works and services. MCC is a U.S. government agency focused on assisting countries dedicated to good governance, economic freedom, and investments in people.

The proposed Compact tentatively includes investment from MCC of approximately US\$500 million and an additional US\$130 million from the Government, for a total of approximately US\$630 million. It includes two projects: (i) construction of about 300 kilometers of 400kV electricity transmission lines, three substations, and technical assistance for the power sector; and (ii) technical assistance to improve the road maintenance regime and road maintenance works on about 300 kilometers of the strategic road network. The program would include the procurement of contractors and consultants for design, construction and supervision of electricity lines and substations, road maintenance works, including a variety of technical services, equipment and construction works in different geographic locations within Nepal. These contracts will be competed through open international procurement procedures.

(b) MCA-Nepal invited bids for the Works (as defined in this Contract) and has accepted a bid by the Contractor.

NOW, THEREFORE, the parties to this Contract agree as follows:

The following documents are integral parts of this Contract.

- a. Letter of Acceptance/Notification of Award,
- b. Annex to General Provisions Conditions of Contract
- c. Drawings
- d. Form of Quotation

e. Bill of Quantity

In consideration of the Contract Price (as defined in this Contract), the Contractor shall provide the Works (as defined in this Contract) and remedy defects therein in accordance with the provisions of this Contract.

Subject to the terms of this Contract, MCA-Nepal shall pay to the Contractor the Contract Price (as defined in this Contract) or such other sums as may become payable under the provisions of this Contract at the times and in the manner prescribed by this Contract.

This contract shall be effective only after fulfillment of following conditions

- The Contract Agreement has been duly signed by both parties.
- The Contractor has submitted Original copy of Bank Guarantee for Performance Security
- The site possession letter has been issued by Project/Contract Manager.

IN WITNESS whereof the parties hereto have executed this Contract as of the date first indicated above.

**Millennium Challenge Account Nepal
(MCA-Nepal):**

XXXXXXXXXXXXXXXXXXXXXXXXXX

Signature:

Signature:

Name: **Mr. Khadga Bahadur Bisht**
Position: Executive Director

Name: **XXXXXXXXXXXX**
Position: xxxxxxxxxxxx

Witnessed by:

Witnessed by:

Signature:

Signature:

Name:
Position:

Name: **XXXXXXXXXXXX**
Position: XXXXXXXXXXXXX

Annex A: Conditions of Contract

1.	Contract Price	The Contract Price is the Accepted Contract Amount stated in the Letter of Acceptance and thereafter as adjusted in accordance with the Contract. The accepted contract price is XXXXXXXXX Including VAT.
2.	Documents forming this Contract and priority of documents	The following documents form integral parts of this Contract and, for purposes of interpretation, the priority of said documents shall be in accordance with the following sequence: <ul style="list-style-type: none"> a. Letter of Acceptance/Notification of Award, b. Form of Quotation c. Conditions of Contract d. Technical Specification e. Bill of Quantities f. Annex to General Provisions g. Any other documents forming part of this Contract
3.	Contract Language	The language for this Contract shall be English.
4.	Works and its Completion	(a) The term “Works” shall refer to Construction of Boundary Wall for Ratmate Substation (Barbed wire fence) (as described in Annexes A and B of this Contract) to be carried out at the Site (as defined in Clause 10). (b) Without limiting the foregoing definition, the Contractor shall Complete the Works (as defined under Annex B) within the periods stated in Clause 8.
5.	Fraud and Corruption	MCC requires that all beneficiaries of MCC Funding, including the MCA Entity and any applicants, Bidders, Suppliers, contractors, Subcontractors, consultants, and sub-consultants under any MCC-funded contracts, observe the highest standards of ethics during the procurement and execution of such contracts. MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations (“MCC’s AFC Policy”) is applicable to all procurements and contracts involving MCC Funding and can be found on the MCC website. MCC’s AFC Policy requires that companies and entities receiving MCC funds acknowledge notice of MCC’s AFC Policy and certify that they have acceptable commitments and

		<p>procedures in place to address the potential for fraudulent and corrupt practices.</p> <p>(a) For the purposes of these provisions, the terms set forth below are defined as follows:</p> <ul style="list-style-type: none"> (i) “coercion” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of any party, to influence improperly the actions of a party in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including such actions taken in connection with a procurement process or the execution of a contract; (ii) “collusion” means a tacit or explicit agreement between two or more parties to engage in a coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice, including any such agreement designed to fix, stabilize, or manipulate prices or to otherwise deprive the Millennium Challenge Account Entity of the benefits of free and open competition; (iii) “corruption” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of a public official, Millennium Challenge Account Entity staff, MCC staff, consultants, or employees of other entities engaged in work supported, in whole or in part, with MCC funding, including such work involving taking or reviewing selection decisions, otherwise advancing the selection process or contract execution, or the making of any payment to any third party in connection with or in furtherance of a contract; (iv) “fraud” means any act or omission, including any misrepresentation, that knowingly or recklessly misleads or attempts to mislead a party in order to obtain a financial or other benefit in connection with the implementation of any contract supported, in whole or in part, with MCC funding, including any act or omission designed to influence (or attempt to influence) improperly a selection process or the execution of a contract, or to avoid (or attempt to avoid) an obligation; (v) “obstruction of investigation into allegations of fraud or corruption” means any act taken in connection with the implementation of any
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		<p>contract supported, in whole or in part, with MCC funding: (a) that results in the deliberate destroying, falsifying, altering or concealing of evidence or making false statement(s) to investigators or any official in order to impede an investigation into allegations of coercion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or a prohibited practice; or (b) that threatens, harasses, or intimidates any party to prevent him or her from either disclosing his or her knowledge of matters relevant to an investigation or from pursuing the investigation; or (c) that is intended to impede the conduct of an inspection and/or the exercise of audit rights of MCC and/or the Office of the Inspector General (OIG) responsible for MCC provided under a compact, threshold program agreement, or related agreements. “</p> <p>(vi) “prohibited practice” means any action that violates Section E (Compliance with Anti-Corruption Legislation), Section F (Compliance with Anti-Money Laundering Legislation), and Section G (Compliance with Terrorist Financing Legislation and Other Restrictions) of the Annex of General Provisions that will be made a part of MCC-funded contracts.</p> <p>(b)The Employer will reject a Bid (and MCC will deny approval of a proposed Contract award) if it determines that the Bidder recommended for award has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for the Contract.</p> <p>(c) MCC and the Employer have the right to sanction a Bidder or Contractor, including declaring the Bidder or Contractor ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract if at any time either MCC or the Employer determines that the Bidder or Contractor has, directly or through an agent, engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices in competing for, or in executing, such a contract.</p> <p>(d)MCC and the Employer have the right to require that a provision be included in the Contract requiring the selected Bidder or Contractor to permit the Employer, MCC, or any designee of MCC, to inspect the Bidder’s or Contractor’s, or any of the Contractor’s suppliers or subcontractors on the Contract, accounts, records and</p>
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		<p>other documents relating to the submission of its Bid or performance of the Contract and to have such accounts, records and other documents audited by auditors appointed by MCC or by the Employer with the approval of MCC.</p> <p>(e) In addition, MCC has the right to cancel any portion or all of the MCC Funding allocated to the Contract if it determines at any time that any representative of a beneficiary of MCC Funding engaged in coercion, collusion, corruption, fraud, obstruction of investigation into allegations of fraud or corruption, or prohibited practices during the selection process or the execution of any MCC-funded contract without the Employer having taken timely and appropriate action satisfactory to MCC to remedy the situation.</p>
6.	<p>Combating Trafficking in Persons</p>	<p>MCC, along with other United States Government entities, has adopted a zero-tolerance policy with regard to Trafficking in Persons (“TIP”) through its Counter-Trafficking in Persons Policy.¹ In pursuance of this policy:</p> <p>Defined Terms. For purposes of the application and interpretation of this Clause 6:</p> <p>(i) The terms “coercion,” “commercial sex act,” “debt bondage,” “employee,” “forced labor,” “fraud,” “involuntary servitude,” and “sex trafficking” have the meanings given such terms in the MCC Counter-Trafficking in Persons Policy (“MCC C-TIP Policy”) and such definitions are incorporated by reference into this Sub-Clause; and(ii) “Trafficking in persons” means (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.</p> <p>Prohibition. Contractors, subcontractors, Consultants, Sub-Consultants and any of their respective Personnel shall not engage in any form of Trafficking in Persons during the period of performance of any contract funded, in whole or in part, with MCC funding and must also comply with those prohibitions described in U.S. laws and Execute Orders regarding TIP, including using</p>

¹ <https://www.mcc.gov/resources/doc/policy-counter-trafficking-in-persons-policy>
RFQ for Construction of Boundary Wall for Ratmate Substation (Barbed wire fence)
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misleading recruitment practices; charging employees recruitment fees; or destroying, concealing, confiscating, or otherwise denying access by an employee to the employee's identity documents.

Contractor Requirements. The Contractor shall:

fulfill its obligations under this Clause 6 and any additional obligations related to TIP that may be set forth in the Specification or any other documents that make up the Contract;

notify Contractor's Personnel with respect to MCC's policy regarding TIP and the prohibited activities described in this Clause 6;

notify the Engineer and the Employer within 24 hours or as soon as reasonably possible upon the Contractor:

becoming aware of any information it receives from any source (including law enforcement) that alleges any Contractor's Personnel, subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, has engaged in conduct that violates MCC's C-TIP policy; or

taking any action against any Contractor's Personnel, subcontractor or supplier, or any of their respective personnel, or any agent or affiliate of any of them, pursuant to these requirements; and

ensure that any subcontract or sub-award entered into by the Contractor, as permitted by the Contract, includes the substance of the provisions of this Sub-Clause.

Remedies. In addition to any other remedies that may be available under the terms of this Contract or applicable Laws, any breach of this Clause 6 may result in:

the Employer requiring the Contractor to remove the involved Contractor's Personnel, subcontractor or supplier, any of their involved personnel, or any involved agent or affiliate;

the Employer requiring the termination of a subcontract or sub-award;

		<p>suspension of Contract payments until the breach is remedied to the satisfaction of the Employer and MCC;</p> <p>the Employer or MCC pursuing sanctions against the Contractor and any subcontractor, supplier or other party involved, including declaring the Contractor, subcontractor, supplier or other party ineligible, either indefinitely or for a stated period of time, to be awarded any MCC-funded contract; and</p> <p>termination of the Contract by the MCA Entity for default or cause in accordance with the termination clause of the Contract</p>
7.	Eligibility	<p>(a) The Contractor (including its associates, if any) and its Personnel, Sub-Contractors, Consultants and Sub-Consultants shall not be any person or entity:</p> <ul style="list-style-type: none"> (i) under a declaration of ineligibility for Fraud and Corruption in accordance with the provisions above, or (ii) that has been declared ineligible for participation in a procurement in accordance with the procedures set out in the MCC Program Procurement Guidance paper entitled <i>“Excluded Parties Verification Procedures in MCA Entity Program Procurements”</i> that can be found on MCC’s website at www.mcc.gov, or (iii) that is organized in or has its principal place of business or a significant portion of its operations in any country that is subject to sanction or restriction by law or policy of the United States. <p>(b) The Contractor (including its associates, if any) and its Personnel, Sub-Contractors and Sub-Consultants not otherwise made ineligible for a reason described in the immediately preceding paragraph shall be excluded if:</p> <ul style="list-style-type: none"> (i) as a matter of law or official regulation, the Government prohibits commercial relations with the country of such Contractor, associates, Personnel or Sub-Consultants; (ii) 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 Government prohibits any import of goods from the country of such Contractor, associates, Personnel or Sub-Consultants or any payments to persons or entities in such country; or

		<p>(iii) the Contractor or its associates, Personnel, Sub-Contractors or Sub-Consultants are otherwise deemed ineligible by MCC pursuant to any policy or guidance that may, from time to time, be in effect as posted on the MCC website at www.mcc.gov.</p> <p>(c) In the case where the Contractor intends to associate with another contractor and/or individual expert(s), then such associates shall also be subject to the eligibility criteria set forth in this document and as contained in the “MCC Program Procurement Guidelines” governing MCC-funded procurements under the Compact.</p>
8.	Site Possession/hand over of Site Date, Date of Start & Completion Period	<p>After signing of the Contract, MCA-Nepal will issue a Notice to Proceed and then hand over the site to the Contractor within 7 days after Notice to Proceed. The mobilization period is seven (7) calendar days after handover of site. The date of start will be the next day of expiration of mobilization period and after fulfilling the conditions of effectiveness mentioned under form of Contract. The Works shall be completed within One Hundred and Fifty (150) calendar days. (the “Completion Period”) for date of start. The design works need to be completed within 30 days and total 150 days for completion of all works.</p>
9.	Contract Manager	<p>MCA-Nepal hereby designates Mr. XXXX, Project Manager, MCA-Nepal as the person who shall, on behalf of MCA-Nepal: (a) supervise the performance of the Works by the Contractor; (b) issue any instructions and the certification that the document or work subject of the Contractor’s billing statement has been accepted or performed (the “Payment Certificate”); (c) issue the work completion certificate; (d) organize and conduct management meetings with MCA-Nepal and the Contractor to follow up on the progress of the Works; (e) issue the defects liability certificate, and (f) Contract Manager, in consultation with MCA-Nepal, shall decide contractual matters between the Employer and the Contractor in the role representing the Employer. MCA-Nepal may delegate any of the duties of Contract Manager and responsibilities to other people, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.</p>
10.	Site	<p>The term “Site” refers to the Ratmate Substation site located at BelkotGadhi Municipality, Ward No. 7, Nuwakot District, Bagmati Province and is defined in the Drawings.</p>

11.	Notices and Contact Persons	<p>For notices to MCA-Nepal, the address shall be the following or such other address as may be notified by MCA-Nepal to the Contractor:</p> <p style="text-align: center;">Millennium Challenge Account Nepal (MCA-Nepal) XXX Specialist, Yak and Yeti Hotel, Durbar Marg, Kathmandu, Nepal Email:</p> <p>For notices to the Contractor, the address shall be the following or such other address as may be notified by the Contractor to MCA-Nepal:</p> <p style="text-align: center;">XXXXXXXXXXXX Attn: XXXXXXXXXXXXXXX XXXXXXXXXXXX Kathmandu, Nepal Email:</p>
12.	Defects Liability	<p>(a) The Contract Manager shall give notice to the Contractor of any defects before the end of the Defects Liability Period (as defined below), which period shall begin upon completion of the Works.</p> <p>(b) Subject to paragraph (c), the Defects Liability Period is: 365 calendar days from acceptance of the Works.</p> <p>(c) The Contractor shall correct, even beyond the Defects Liability Period, any defects made known to the Contractor during the Defects Liability Period.</p> <p>(d) The Defects Liability Period shall be extended for as long as Defects remain to be corrected.</p>
13.	Taxes	<p>Except as may be exempt pursuant to the Compact, MCA Nepal and all Providers, Covered Providers, Contract Partners, contractors (prime contractors and subcontractors), consultants, and other entities and individuals that receive MCC funding directly or indirectly in furtherance of the Compact are exempt from Taxes or will be refunded equal amount of Taxes paid in respect of the MCC funding in accordance with Section 2.8 of the Compact available at: https://assets.mcc.gov/content/uploads/compact-Nepal.pdf</p>
14.	Price Adjustment	<p>The Contract Price is not subject to price adjustment and includes all of the Contractor's cost and profits.</p>
15.	Retention	<p>(a) MCA-Nepal shall retain an amount corresponding to the Retention Rate (as defined below) from each Payment (as defined in Clause 18) until completion of</p>

		<p>100% of the Works (the “Final Payment”). The sum of all such retained amounts is the “Retention Amount”.</p> <p>(b) On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has passed and the Contract Manager has certified that all Defects notified by the Contract Manager to the Contractor before the end of the Defects Liability Period have been corrected.</p> <p>(c) On completion of the whole Works, the Contractor may substitute retention money with an “on demand” bank guarantee in a form and issued by a bank (A class commercial Bank in Nepal) acceptable to the Employer.</p> <p>(d) The Retention Rate is: Ten Percent (10%) from each Payment limited to maximum 10% of the Contract Price.</p>
16.	Liquidated Damages	<p>MCA-Nepal may, at its option, require the Contractor to pay liquidated damages to MCA-Nepal at the rate of 0.5% of Contract Price per week for each week that the date of completion of the Works is later than the last day of the Completion Period. The total amount of liquidated damages shall not exceed 10% of the Contract Price. MCA-Nepal may deduct liquidated damages from each Payment without need of prior notice or demand. Payment of liquidated damages shall not affect the Contractor’s liabilities or relieve the Contractor of its obligation to perform the Works.</p>
17.	Dispute Resolution	<p>The parties agree that the avoidance or early resolution of disputes is crucial for a smooth execution of this Contract. The parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.</p>
18.	Mobilization and Payments	<p>Mobilization:</p> <p>The minimum initial mobilization activities shall be carried out by the contractor are:</p> <ul style="list-style-type: none"> (a) Providing the documentation for order of materials/equipment required for the work and with work/time schedule for the Works. (b) Mobilization of manpower (skilled, unskilled and professionals) in the site. (c) Any other requirements for the Works instructed by the MCA-Nepal. <p>Payment:</p>

		<p>The Contractor will be paid for the works done as per the Bills of Quantity. .</p> <p>Minimum amount of interim payment request shall be NPR 500,000. All Interim payment certification requires Invoices and other required proof of partial completion of work such as acceptance certificate issued by the contract manager. The final payment certification requires invoices, and Certificate of Acceptance issued by the contract manager.</p> <p>All Interim Payment Certificates (IPCs)/Final Payment Certificate must clearly indicate the period of performance for which payment is requested. In addition:</p> <p>(a) The Contractor shall be entitled to receive the payment upon issuance by the Contract Manager of a Payment Certificate, stating that the Contractor has achieved the progress as per the submitted invoice. There shall be no Advance Payment.</p> <p>(b) The amount covered by an invoice shall be due on the thirtieth (30th) day after the invoice and the corresponding Payment Certificate, endorsed by the Contract Manager, are submitted by the Contractor to MCA-Nepal.</p> <p>(c) Payments will be made to the Contractor’s bank account described below:</p> <ul style="list-style-type: none"> i) Account name: ii) Account Type: iii) Account Number: iv) Bank Name and address: v) Bank Swift or ABA Code:
19.	Performance Security	<p>(a) The Contractor shall furnish MCA-Nepal a security for the Contractor’s performance of its obligations under this Contract (the “Performance Security”). The Performance Security shall be in the form of unconditional bank guarantee from “A” class Commercial Bank.</p> <p>(b) The Performance Security shall be valid until the date 28 days beyond the end date of the Defects Liability Period., If extension is needed due to delay the Contractor shall be responsible for extension of the validity of the Performance Security. The Performance Security amount is Five Percent (5%) of the Contract Price.</p>

		If the contract performance is delayed or extended, the performance security shall be extended by the Contractor accordingly.
20.	Termination	<p>(a) MCA-Nepal or the Contractor may terminate this Contract if the other party causes a fundamental breach of this Contract. Fundamental breaches of Contract shall include, but shall not be limited to, the following:</p> <ul style="list-style-type: none"> (i) the Contractor stops work for 28 calendar days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Contract Manager; (ii) the Contract Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 calendar days; (iii) (1) the other party commences a voluntary proceeding for: (A) an order of relief from its debtors, a declaration of its bankruptcy or insolvency, or a reorganization, arrangement, adjustment, winding-up, liquidation, dissolution, composition or other relief with respect to it or its debts, or (B) the appointment of a receiver, trustee, liquidator, custodian, conservator or other similar official for it or a substantial part of its property; (2) an involuntary proceeding against the other party of a nature referred to in clause (1): (A) results in the entry of an order for relief or any such adjudication or appointment, or (B) remains undismissed, undischarged, unstayed or unbonded for a period of at least 60 calendar days; (3) an involuntary proceeding against the other party results in the issuance of a warrant of attachment, execution, distraint or similar process against it or a substantial part of its assets, and said warrant is not vacated, discharged, stayed or bonded pending appeal within 60 calendar days from the entry thereof, (4) the other party shall become subject to intervention proceedings under any applicable bankruptcy or insolvency laws or rules of any jurisdiction, or (5) the other party shall admit in writing its inability to pay its debts as they become due or shall make a general assignment for the benefit of its creditors.

		<ul style="list-style-type: none"> (iv) an invoice covered by a Payment Certificate by the Contract Manager is not paid by MCA-Nepal to the Contractor within 60 calendar days of the due date stated in Clause 18; (v) the Contract Manager gives notice that failure to correct a particular Defect is a fundamental breach of this Contract and the Contractor fails to correct it within a reasonable period of time determined by the Contract Manager; (vi) the Contractor does not maintain a Performance Security, which is required in accordance with the provisions of this Contract; (vii) the Contractor has delayed the completion of the Works by the number of days for which the maximum amount of liquidated damages can be paid, as defined in the Conditions of Contract; (viii) the Contractor, in the judgment of MCA-Nepal, has, directly or through an agent, engaged in any Coercive Practice, Collusive Practice, Corrupt Practice, Fraudulent Practice, Obstructive Practice, or Prohibited Practice (each as defined in the Conditions of Contract) in competing for or in the performance of this Contract or another MCC-funded contract; and (ix) the Contractor, in the judgment of MCA-Nepal or MCC, fails to perform its obligations relating to the use of funds set out in the General Provisions of the Compact as set forth in https://www.mcc.gov/resources/doc/annex-of-general-provisions; (which such termination will obligate the Contractor to repay any and all funds so misused within a maximum of 30 calendar days after termination). <p>(b) When either party to this Contract gives notice of a breach of Contract to the Contract Manager for a cause other than those listed above, the Contract Manager shall decide whether the breach is fundamental or not.</p> <p>(c) If this Contract is terminated for any reason, the Contractor shall (i) stop work immediately, (ii) make the Site safe and secure, (iii) hand over any Drawings, Specifications, other documents, Materials, Plant, and other work for which the Contractor has received payment (and all Materials, Plant, Equipment, Temporary Works, and Works), and (iv) leave the Site as soon as reasonably possible.</p>
21.	Uncompleted Works	(a) If this Contract is terminated because of a fundamental breach of Contract by the Contractor, the Contract Manager shall issue a certificate for the value of the work done and Materials ordered less advance

		<p>payments, if any, received up to the date of the issue of such certificate and less the percentage to apply to the value of the work not completed, as indicated below. Additional liquidated damages shall not apply. If the total amount due to MCA-Nepal exceeds any payment due to the Contractor, the difference shall be a debt payable to MCA-Nepal.</p> <p>(b) The percentage to apply to the value of the work not completed, representing MCA-Nepal's additional cost for completing the Works, is Twenty Percent (20%).</p>
22.	Amendments	<p>(a) No amendments or waivers of any provision of this Contract shall be binding on any party unless consented to in writing by the authorized signatory of such party. No waiver of any provision of this Contract shall constitute a waiver of any other provision, nor shall any waiver constitute a continuing waiver unless otherwise provided.</p> <p>(b) All consents or waivers shall be communicated by each party to the other through their respective Contact Persons designated under Clause 11.</p>
23.	Applicable Law	This Contract shall be governed by and construed in accordance with the laws of the Nepal.
24.	Assignment	The Contractor shall not assign this Contract or sub-contract any portion of it without the MCA-Nepal's prior written consent.
25.	Performance Standards	The Contractor undertakes to perform the works with the highest standards of professional and ethical competence and integrity.
26	Extension of Intended Completion date	The Contract Manager with prior approval of MCA-Nepal shall extend the Intended Completion Date if a Compensation Event or force majeure occurs. No Contract value shall be increased due such Compensation Event or force majeure.
27	Coordination	The contractor shall be working for Construction of Boundary Wall for Ratmate Substation (Barbed wire fence) . Therefore, the contractor shall work with close coordination with relevant Government Agencies and/or other contractors.
28	Employer's Risks	<p>From the Start Date until the Defects Liability Certificate has been issued, the following are Employer's risks:</p> <p>(a) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to</p> <p style="padding-left: 40px;">(i) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or</p>

		<p>(ii) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.</p> <p>(b) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed.</p> <p>From the Completion Date until the Defects Liability Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to</p> <p>(a) a Defect which existed on the Completion Date,</p> <p>(b) an event occurring before the Completion Date, which was not itself an Employer's risk, or</p> <p>(c) the activities of the Contractor on the Site after the Completion Date.</p>
29.	Contractor's Risks	<p>From the Starting Date until the Defects Liability Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, Equipment, Quality, Completing the work within Contract Price and duration/time) which are not Employer's risks are Contractor's risks.</p>
30	Design by contractor and Approval by the Contract Manager	<p>The contractor shall be responsible for the design of permanent works and proceed for the construction only after Contract Manager approval of the design.</p> <p>Contractor shall be responsible for design of the Temporary Works too. The Contractor shall submit Specifications and Drawings showing the proposed Temporary Works to the Contract Manager, for his approval.</p> <p>All Design and Drawings prepared by the Contractor for the execution of the temporary or permanent Works, shall be subject to prior approval by the Contract Manager before their use.</p> <p>The Contract Manager's approval shall not alter the Contractor's responsibility for design and construction of temporary and permanent works.</p>
31	Quality Control	<p>The Contract Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Contract Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Contract Manager considers may have a Defect.</p>

		<p>If the Contract Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event.</p> <p>If the Contractor has not corrected a Defect within the time specified in the Contract Manager's notice, the Contract Manager shall assess the cost of having the Defect corrected, and the Contractor shall pay this amount.</p>
32	Sub-Contracting	There is no provision of Sub-Contracting without prior approval of Contract Manager
33	Insurance	<p>The Contractor shall provide insurance in the joint names of the Employer and the Contractor from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles for the following events which are due to the Contractor's risks:</p> <ul style="list-style-type: none"> (a) loss of or damage to the Works, Plant, and Materials equivalent to value of the Contract amount; (b) loss of or damage to Equipment; (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and (d) Personal injury or death. <p>Policies and certificates for insurance shall be delivered by the Contractor to the Contract Manager for the Contract Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the proportions of Nepalese Rupees required to rectify the loss or damage incurred.</p> <p>If the Contractor does not provide any of the policies and certificates required, the Employer may affect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.</p> <p>Alterations to the terms of insurance shall not be made without the approval of the Contract Manager.</p> <p>Both parties shall comply with any conditions of the insurance policies.</p>

Annex B: Scope of Work/Technical Specifications

Attached as a separate document.

Annex C: Drawings

Attached as a separate document.

Annex D: Bills of Quantities

Attached as a separate document.

Annex E: Form of Performance Bank Guarantee

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

Beneficiary: [Name and Address of Employer]

Date: _____

PERFORMANCE GUARANTEE No.: _____

We have been informed that [name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [insert reference number of the contract] dated [insert date] with you, for the execution of [name of contract and brief description of Works] (hereinafter called "the Contract").

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

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

This guarantee shall expire no later than twenty-eight (28) days following the date of issuance of the Defects Liability Certificate in accordance with the terms of the Contract, calculated based on a copy of such Defects Liability Certificate which shall be provided to us; or on the ___ day of ____, 2__, whichever occurs first, unless the date specified is extended in accordance with the following paragraph.

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

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

[Issuing Bank to delete whichever is not applicable] We confirm that [we are a financial institution legally authorized to provide this guarantee in the Employer's country] **[OR]** [we are a financial institution located outside the Employer's country but have a correspondent financial institution located in the Employer's country that will ensure the enforceability of this guarantee. The name of our correspondent bank and contact

information is as follows: (provide name, address, phone number, and email address).

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

[signature(s)]

Annex F: MCC's Policy – Annex to General Provisions



MILLENNIUM

CHALLENGE CORPORATION

UNITED STATES OF AMERICA

Annex of General Provisions

Capitalized terms that are used but not defined in this Annex shall have the meaning given to them in the agreement or contract to which this Annex is attached (the “Agreement”) and that certain Millennium Challenge Compact by and between the United States of America, acting through MCC, and the Government, signed in Washington, DC on 14th September 2017, as may be amended from time to time (the “Compact”).

The Government, acting through MCA-Nepal, the legal entity established by the Government to be responsible for the oversight and management of the implementation of the Compact on behalf of the Government (the “MCA Entity”), has received a grant from MCC pursuant to the Compact and intends to apply a portion of the proceeds of the Compact to eligible payments under this Agreement, provided that: (i) such payments will only be made at the request of and on behalf of the MCA Entity and as authorized by the Fiscal Agent, (ii) MCC shall have no obligations to **XXXX Pvt. Ltd** (for the purposes of this Annex, the “Contract Party”) under the Compact or this Agreement, (iii) such payments will be subject, in all respects, to the terms and conditions of the Compact, and (iv) no party other than the MCA Entity shall derive any rights from the Compact or have any claim to MCC Funding.

MCC Status; Reserved Rights; Third-Party Beneficiary

1. *MCC Status.* MCC is a United States government corporation acting on behalf of the United States government in the implementation of the Compact. MCC has no liability under this Agreement, and is immune from any action or proceeding

arising under or relating to this Agreement. In matters arising under or relating to this Agreement, MCC is not subject to the jurisdiction of the courts or any other juridical or other body of any jurisdiction.

2. *MCC Reserved Rights.*

1. Certain rights are expressly reserved to MCC under this Agreement, the Compact, the Program Implementation Agreement, and other related Compact documents, including the right to approve the terms and conditions of this Agreement, as well as any amendments or modifications hereto, and the right to suspend or terminate this Agreement.
2. MCC, in reserving such rights under this Agreement, the Compact or other related Compact documents, has acted solely as a funding entity to assure the proper use of United States Government funds, and any decision by MCC to exercise or refrain from exercising these rights shall be made as a funding entity in the course of funding the activity and shall not be construed as making MCC a party to this Agreement.
3. MCC may, from time to time, exercise its rights, or discuss matters related to this Agreement with the parties to this Agreement, the Government or the MCA Entity, as appropriate, jointly or separately, without thereby incurring any responsibility or liability to any party.
4. Any approval (or failure to approve) or exercise of (or failure to exercise) any rights by MCC shall not bar the Government, the MCA Entity, MCC or any other person or entity from asserting any right against the Contract Party, or relieve the Contract Party of any liability, which the Contract Party might otherwise have to the Government, MCA Entity, MCC, or any other person or entity. For the purposes of this clause (d), MCC shall be deemed to include any MCC officer, director, employee, affiliate, contractor, agent or representative.

3. *Third-Party Beneficiary.* MCC shall be deemed to be a third party beneficiary under this Agreement

Limitations on the Use or Treatment of MCC Funding.

The use and treatment of MCC Funding in connection with the Agreement does not, and shall not, violate any limitations or requirements specified in the Compact, the Program Implementation Agreement, any Supplemental Agreement, or any other relevant agreement or Implementation Letter or applicable Laws or United States government policy. No MCC Funding shall be used for military purposes, for any activity likely to cause a substantial loss of United States jobs or a substantial displacement of United States production, to support any activity likely to cause a significant environmental, health or safety hazard, or to fund abortions or involuntary sterilizations as a method of family planning. MCC Funding shall be free from the payment or imposition of all Taxes as set forth in the Compact.

Procurement.

The Contract Party shall ensure that all procurements of goods, services or works under, related to or in furtherance of this Agreement shall be consistent with the general principles set forth in Section 3.6 of the Compact and in the MCC Program Procurement Guidelines. The Contract Party shall comply with the eligibility requirements related to prohibited source or restricted party provisions in accordance with U.S. law, regulations and policy, applicable World Bank policies or guidelines and in accordance with other eligibility requirements as may be specified by MCC or the MCA Entity.

Reports and Information; Access; Audits; Reviews

1. *Reports and Information.* The Contract Party shall maintain such books and records and provide such reports, documents, data or other information to the MCA Entity in the manner and to the extent required by Section 3.7) of the Compact, the Program Implementation Agreement, any Supplemental Agreement, or other related Compact document, and as may be reasonably requested by the MCA Entity from time to time in order to comply with its reporting requirements arising under the Compact, the Program Implementation Agreement, any Supplemental Agreement, or other related Compact document. The provisions of Section 3.7 of the Compact that are applicable to the Government shall apply, *mutatis mutandis*, to the Contract Party as if such Contract Party were the Government under the Compact. A summary of the applicable Compact provisions referenced in this paragraph may be found on the MCC website at www.mcc.gov/guidance/compact/audits_reviews_provisions.pdf.
2. *Access; Audits and Reviews.* The Contract Party shall permit such access, audits, reviews and evaluations as provided in the Compact, including without limitation Section 3.8 of the Compact, the Program Implementation Agreement, any Supplemental Agreement, or other related Compact document. The provisions of the Compact that are applicable to the Government with respect to access and audits shall apply, *mutatis mutandis*, to the Contract Party as if such Contract Party were the Government under the Compact. A summary of the applicable Compact provisions referenced in this paragraph may be found on the MCC website at www.mcc.gov/guidance/compact/audits_reviews_provisions.pdf.
3. *Application to Providers.* The Contract Party shall ensure the inclusion of the applicable audit, access and reporting requirements in its contracts or agreements with other Providers in connection with the Agreement. A summary of the applicable requirements may be found on the MCC website at www.mcc.gov/guidance/compact/audits_reviews_provisions.pdf.

Compliance with Anti-Corruption Legislation.

The Contract Party shall ensure that no payments have been or will be made by such Contract Party to any official of the Government, the MCA Entity, or any third party (including any other government official) in connection with this Agreement in violation of the United States Foreign Corrupt Practices Act of 1977, as amended (15 U.S.C. 78a et seq.) (the "FCPA") or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Agreement, including any local laws. The Contract Party affirms that no payments have been or will be received by any official, employee, agent or representative of such Contract Party in connection with this Agreement in violation of the FCPA or that would otherwise be in violation of the FCPA if the party making such payment were deemed to be a United States person or entity subject to the FCPA, or similar statute applicable to this Agreement, including any local laws.

Compliance with Anti-Money Laundering Legislation.

The Contract Party shall ensure that MCC Funding pursuant to this Agreement is not used for money- laundering activities and, to that end, shall comply with any policies and procedures for monitoring its operations to ensure compliance, as may be established from time to time by the Contract Party, MCC, the MCA Entity, the Fiscal Agent, the Procurement Agent, or the Bank.

Compliance with Terrorist Financing Legislation and Other Restrictions.

1. The Contract Party shall not provide material support or resources directly or indirectly to, or knowingly permit MCC Funding to be transferred to, any individual, corporation or other entity that the Contract Party knows, or has reason to know, commits, attempts to commit, advocates, facilitates, or participates in any terrorist activity, or has committed, attempted to commit, advocated, facilitated or participated in any terrorist activity, including, but not limited to, the individuals and entities (i) on the master list of Specially Designated Nationals and Blocked Persons maintained by the S. Department of Treasury's Office of Foreign Assets Control, which list is available at www.treas.gov/offices/enforcement/ofac, (ii) on the consolidated list of individuals and entities maintained by the "1267 Committee" of the United Nations Security Council, (iii) on the list maintained on www.sam.gov, or (iv) on such other list as the MCA Entity may request from time to time. For purposes of this provision, "material support and resources" includes currency, monetary instruments or other financial securities, financial services, lodging, training, expert advice or assistance, safe houses, false documentation or

identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

2. The Contract Party shall ensure that its activities under this Agreement comply with all applicable

S. laws, regulations and executive orders regarding money laundering, terrorist financing, U.S. sanctions laws, restrictive trade practices, boycotts, and all other economic sanctions promulgated from time to time by means of statute, executive order, regulation or as administered by the Office of Foreign Assets Control of the United States Treasury Department or any successor governmental authority, including, 18 U.S.C. Section 1956, 18 U.S.C. Section 1957, 18 U.S.C. Section 2339A, 18 U.S.C. Section 2339B, 18 U.S.C. Section 2339C, 18 U.S.C. Section 981, 18 U.S.C. Section 982, Executive Order 13224, 15 C.F.R. Part 760, and those economic sanctions programs enumerated at 31 C.F.R. Parts 500 through 598 and shall ensure that its activities under the Contract comply with any policies and procedures for monitoring operations to ensure compliance, as may be established from time to time by MCC, the MCA Entity, the Fiscal Agent, or the Bank, as may be applicable. The Contract Party shall verify, or cause to be verified, appropriately any individual, corporation or other entity with access to or recipient of funds, which verification shall be conducted in accordance with the procedures set out in Part 10 of the MCC Program Procurement Guidelines (Eligibility Verification Procedures) that can be found on MCC's website at www.mcc.gov. The Contract Party shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the MCA Entity or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the MCA Entity with a copy to MCC.

3. Other restrictions on the Contract Party shall apply as set forth in Section 5.1 of the Compact with

respect to drug trafficking, terrorism, sex trafficking, prostitution, fraud, felony, any misconduct injurious to MCC or the MCA Entity, any activity contrary to the national security interests of the United States or any other activity that materially and adversely affects the ability of the Government or any other party to effectively implement, or ensure the effective implementation of, the Program or any Project or to otherwise carry out its responsibilities or obligations under or in furtherance of the Compact, the Program Implementation Agreement, any Supplemental Agreement, or other related Compact document, or that materially and adversely affects the Program Assets or any Permitted Account.

Publicity, Information and Marking.

The Contract Party shall cooperate with the MCA Entity and the Government to provide the appropriate publicity to the goods, works and services provided under this Agreement, including identifying Program activity sites and marking Program Assets as goods, services, and works funded by the United States, acting through MCC, all in accordance with the MCC Standards for Global Marking available on the MCC website at <https://www.mcc.gov/resources/doc/standards-for-global-marking> *provided*, any announcement, press release or statement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, shall be subject to prior approval by MCC and shall be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters. Upon the termination or expiration of the Compact, MCC may request the removal of, and the Contract Party shall, upon such request, remove, or cause the removal of, any such markings and any references to MCC in any publicity materials. MCC shall have the right to use any information or data provided in any report or document provided to MCC for the purpose of satisfying MCC's reporting requirements or in any other manner.

Insurance.

The Contract Party shall obtain insurance, performance bonds, guarantees or other protections appropriate to cover against risks or liabilities associated with performance of the Agreement. The Contract Party shall be named as payee on any such insurance and the beneficiary of any such guarantee or performance bond. MCC and the MCA Entity shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable laws. The Contract Party shall ensure that any proceeds from claims paid under such insurance or any other form of guarantee shall be used to replace or repair any loss or to pursue the procurement of the covered goods, services, works, *provided, however*, at MCC's election, such proceeds shall be deposited in an account as designated by the MCA Entity and acceptable to MCC or as otherwise directed by MCC.

Conflict of Interest.

The Contract Party shall ensure that no person or entity shall participate in the selection, award, administration or oversight of a contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Agreement, in which (i) the entity, the person, members of the person's immediate family or household or his or her business partners, or organizations controlled by or substantially involving such person or entity, has or have a financial or other interest or (ii) the person or entity is negotiating or has any arrangement concerning prospective

employment, unless such person or entity has first disclosed in writing to the parties under this Agreement and MCC the conflict of interest and, following such disclosure, the parties to this Agreement agree in writing to proceed notwithstanding such conflict. The Contract Party shall ensure that no person or entity involved in the selection, award, administration, oversight or implementation of any contract, grant or other benefit or transaction funded in whole or in part (directly or indirectly) by MCC Funding in connection with this Agreement shall solicit or accept from or offer to a third party or seek or be promised (directly or indirectly) for itself or for another person or entity any gift, gratuity, favor or benefit, other than items of *de minimis* value and otherwise consistent with such guidance as MCC may provide from time to time.

Inconsistencies.

In the event of any conflict between this Agreement and the Compact and/or the Program Implementation Agreement, the term(s) of the Compact and/or the Program Implementation Agreement shall prevail.

Other Provisions

The Contract Party shall abide by such other terms or conditions as may be specified by the MCA Entity or MCC in connection with the Agreement.

Flow-Through Provisions.

In any subcontract or sub-award entered into by the Contract Party, as permitted by the Agreement, the Contract Party shall ensure the inclusion of all the provisions contained in paragraphs (A) through (L) above.

Annex E: Force Majeure Provisions

Force Majeure

Definition

- a. For the purposes of this Contract, “Force Majeure” means an event or condition that (a) is not reasonably foreseeable and is beyond the reasonable control of a Party, and is not the result of any acts, omissions or delays of the Party relying on such event of Force Majeure, (or of any third person over whom such Party has control, including any Sub-Consultant), (b) is not an act, event or condition the risks or consequence of which such Party has expressly agreed to assume under this Contract, (c) could not have been prevented, remedied or cured by such Party’s reasonable diligence, and (d) makes such Party’s performance of its obligations under this Contract impossible or so impractical as to be considered impossible under the circumstances.

No Breach of Contract

- b. The failure of a Party to fulfil any of its obligations under this Contract shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event (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 practicable (and in no event later than five (5) days after the occurrence) about the occurrence of an event giving rise to a claim of Force Majeure.

Measures to be Taken

- c. Subject to paragraph (f), a Party affected by an event of Force Majeure shall continue to perform its obligations under this Contract as far as is reasonably practical, and shall take all reasonable measures to minimize and otherwise mitigate the consequences of any event of Force Majeure.
- d. A Party affected by an event of Force Majeure shall provide evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
- e. 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 Force Majeure.
- f. During the period of its inability to perform the Services as a result of an event of Force Majeure, the Consultant, upon instructions by the MCA-Nepal, shall either:

(i) demobilize, in which case the Consultant shall be

reimbursed for additional costs it reasonably and necessarily incurred and, if the Consultant is required by the MCA-Nepal to reactive its performance of the Services at the time of restoration of normal conditions, the additional costs the Consultant reasonably and necessarily incurred as part of such reactivation; or

(ii) continue with the Services to the extent possible, in which case the Consultant shall continue to be paid under the terms of this Contract and be reimbursed for additional costs reasonably and necessarily incurred.

f. In the case of disagreement between the Parties as to the existence or extent of and event of Force Majeure, the matter shall be settled in accordance with paragraph 17 Annex A of this Contract.