



**GOVERNMENT OF THE REPUBLIC OF MALAWI  
MILLENNIUM CHALLENGE ACCOUNT - MALAWI  
(MCA-MALAWI)**

**INVITATION TO QUOTE (ITQ)**

**Rehabilitation of Archives Storage Facilities at NRS**

**Ref: PA/MCA-MW/MCC/ERM/ITQ/136/2018**

*June, 2018*

**To:** .....  
.....  
.....  
.....  
.....  
.....  
.....

1. You are invited to submit your price quotation for the **Rehabilitation of Archives Storage Facilities at NRS**.
2. The technical specifications and quantities of the items required are presented in Annex 1 and Annex 2 to this Invitation to Quote (hereafter "ITQ") respectively.
3. Your quotation in the all the required formats must be addressed and submitted by hand, by the deadline indicated in Section 6 below, and should be well labeled, for submission to:

**MCA-Malawi Procurement Agent**  
1st Floor, West Wing  
Kang'ombe House, City Center  
Lilongwe 3, Malawi

Tel: +265 1 770 348  
Fax: +265 1770 833  
Email: [MCAMalawiPA@cardno.com](mailto:MCAMalawiPA@cardno.com)

4. Your quotation should be presented on the standard form indicated at **Annex 2** to this ITQ, and should be accompanied by electronic [scanned] copies of all pertinent technical documentation and the relevant pages from catalogue(s) and other printed material or

pertinent information for the items quoted. The filled Bills of Quantity must also be submitted in excel sheet.

5. The **deadline for receipt of your quotation** at the address indicated above (Section 4) is: **July 13 2018 at 11:00hours**, Malawi local time. **Any clarification shall be requested before July 5, 2018 by close of business and** be responded to by **July 9, 2018**.
6. There will be site visit at Malawi Building, Mkulichi Road, Zomba, Malawi, starting from **9 am on July 4, 2018**, followed by a pre-bid meeting.
7. The quotation shall be delivered by the deadline indicated in Section 5, above, to the address indicated in Section 3. The quotation must be **one original and three copies** duly signed by an authorized representative of the Bidder. The envelope containing your quotation must be clearly marked: **“Quotation for Renovation of Archives Storage Facilities at NRS”** If the name and reference is not mentioned, the Purchaser/Employer will not be responsible for any premature opening or late opening or non-acceptance of the quotation due to late recognition of the quotation.
8. The Bidder needs to submit **proof of authorization** of the person signing the quotation on their behalf.
9. The Government of Malawi will ensure that MCA-Malawi and all Providers, Covered Providers, Project 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 except local Malawi bidder. **The local Malawian bidder and any future Contractor are not exempted from taxes and levies.**
10. Your quotation must be submitted as per the following instructions and in accordance with the sample Purchase Order/Contract included as Annex 4 to this ITQ. The Purchase Order/Contract terms and conditions are not negotiable and shall be fully accepted by the Bidder:
  - (i) **PRICES** shall be quoted in United States Dollars (USD)
  - (ii) **EVALUATION OF QUOTATIONS AND AWARD OF PURCHASE ORDER:** Quotations determined to be substantially responsive to the requirement of the Invitation to Quote shall be evaluated by comparison of quoted prices excluding any tax and levy. In case the amount of tax, duties and levy is not stated separately the quoted price/contract price will be considered excluding taxes, duties and levy. A contract will be issued to the Bidder offering the total lowest quotation and that meets all the requirements of the technical specifications, conditions of Contract and MCC Program Procurement Guidelines requirements.
  - (iii) **VALIDITY OF THE OFFER:** Your quotation should be valid for a period of **60 days** from the date of receipt of your quotation, indicated in Section 6 above. A quotation with less than 60 days validity may be rejected and may not be considered.
11. Bidder are required to certify their status as part of their submission by duly completing and submitting the Government-Owned Enterprises (GOE) Certification Form, included as Annex 3 to this ITQ.

12. Each Bidder shall submit only one Quote, either individually or as a member of a joint venture. A Bidder who submits or participates in more than one Quote shall cause all the bids with the Bidder's participation to be disqualified. Further it is to be noted that no alternate quote is permitted under this invitation to quote.
13. MCA-Malawi shall entertain a complaint from any Bidder that claims to have suffered or that may suffer loss or injury due to a breach of duty by MCA-Malawi in the conduct of this selection process. Any complaint shall be submitted in accordance with MCA-Malawi's Bid Challenge System, which is posted on <http://www.mca-m.gov.mw/>
14. Additional information may be obtained at the address indicated in Section 3 (above) and at the following email address: [MCAMalawiPA@cardno.com](mailto:MCAMalawiPA@cardno.com)

Sincerely,

---

**Dye B. Mawindo**  
**Chief Executive Officer**

## ANNEX 1

# Technical Specifications

**The Specifications:** The works will be carried out as per the specification indicated in the Bills of Quantities. In case the Specification for particular items is not referred in the Bills of Quantities, in that case the Contractor is required to carry out the works as per British Standard. However, the works might be carried out as per Department of Buildings guidelines too, in that case the Contractor needs to seek prior written approval of Project Manager. In addition, the Project Manager will be issuing specifications (for any required or additional works) during Construction of Works to facilitate the implementation.

If required, the bidders are also requested to attach detailed specification of major proposed goods to be incorporated in the works for MCA review. A poor quality of proposed goods not complying national or international standard shall be reason for rejection of the bid/quote.

**ANNEX 2**

**Quotation Submission Form  
(OFFER)**

**PA/MCA-MW/MCC/ERMITQ/136/2018**

**Bidder:** \_\_\_\_\_

**Date:** \_\_\_\_\_

ITEM #	Description of Works	Duration for Completion of whole works
All Items	Stated below	60 days from the date of signing of the contract. Where the winning bidder is required to sign the contract within 3 working days of signing of the PO by MCA-Malawi

Item No	Description of Works	Unit of Measure	Quantity	Fully loaded Unit Price USD or Kwacha	Fully Loaded Total Price in USD or Kwacha
<b>1</b>	<b>DEMOLITIONS</b>				
	A Removing old windows	No	6		
	B Removing old ceiling	M <sup>2</sup>	250		
	C Removing one brick size toilet wall	M <sup>2</sup>	6		
	D Removing office compartment	M <sup>2</sup>	12		
	E Removing old floor	M <sup>2</sup>	250		
	F Removing old sinks and closing all pipes	No	6		
		<b>SUB TOTAL</b>			
<b>2</b>	<b>WALLS</b>				
	A Brick up window openings	M <sup>2</sup>	15		
		<b>SUB TOTAL</b>			
<b>3</b>	<b>CEILING</b>				
	A 2X2 soft timber for building	M <sup>2</sup>	200		
	B 4" wire nails	KG	30		
	C 3" wire nails	KG	30		
	D NU-Lite ceiling boards	M <sup>2</sup>	200		
	E Cornice	M	100		
	F 1.5" ceiling nails	KG	30		
		<b>SUB TOTAL</b>			
<b>4</b>	<b>ROOF</b>				
	A Finding and sealing all holes	item			

		on the roof with Nu way seals				
			<b>SUB TOTAL</b>			
<b>5</b>	<b>PLASTERING AND FLOORING</b>					
	A	20mm plastering with lime putty inside	M <sup>2</sup>	270		
	B	20mm sand and cement plastering in 1.4 mix outside	M <sup>2</sup>	270		
	C	35mm flooring work	M <sup>2</sup>	200		
			<b>SUB TOTAL</b>			
<b>6</b>	<b>PAINTING AND DECORATION</b>					
	A	2 coats sheen white paint both inside and outside walls	M <sup>2</sup>	550		
	B	2 coats grey paint on all metal and wooden surfaces	M <sup>2</sup>	20		
	C	2 coats ceiling white paint	M <sup>2</sup>	200		
	D	2 coats roof guard green paint	M <sup>2</sup>	200		
			<b>SUB TOTAL</b>			
<b>7</b>	<b>ELECTRICAL PROVISION</b>					
	A	Electrical provision for the whole system	item			
	B	Allow for provision sum for smoke detectors and sprinklers	item			
			<b>SUB TOTAL</b>			
<b>8</b>	<b>TOILET</b>					
	A	Floor tiles	M <sup>2</sup>	20		
	B	Ceramic glazed wall tiles on 1.5 height above floor	M <sup>2</sup>	30		
	C	Allow for a provisional sum for all plumbing works	Item			
			<b>SUB TOTAL</b>			
<b>9</b>	<b>OUTSIDE WORKS</b>					
	<b>I. WIRE FENCE</b>					
	A	Steel pole	No	40		
	B	Weld mesh wire	M	85		
	C	Hooks	No	40		
	D	Razor wire	M	120		
	E	2100 x 2000 mm gate	Item	3		
	F	painting	M <sup>2</sup>	200		
			<b>SUB TOTAL</b>			

	<b>II. INTERLOCKING PAVERS</b>					
	A	Ground preparations	M <sup>2</sup>	500		
	B	Moulding pavers	M <sup>2</sup>	500		
	C	Laying pavers with sand quarry dust with cement	M <sup>2</sup>	500		
			<b>SUB TOTAL</b>			
	<b>SUMMARY</b>					
<b>ITEM</b>	<b>DESCRIPTION</b>		<b>UNIT</b>	<b>QUANTITY</b>	<b>RATE</b>	<b>AMOUNT(MWK)</b>
1	Main Building		Item			
2	Electrical provision		Item			
3	Outside works		Item			
			<b>SUB TOTAL</b>			
			<b>Sub-total</b>			
			<b>Add 16.5% Vat</b>			
			<b>Add 1% NCIC</b>			
			<b>GRAND TOTAL</b>			

We confirm that:

1. The price quoted for each item excludes VAT or any Custom Duty.
2. The price quoted includes all cost required to supply, install and complete the works and associated works at site. The bidder has visited the site before quoting the price and understood the requirements. The winning bidder will not be paid any additional amount for the scope of works listed.
3. The currency of our quoted priced is \_\_\_\_\_ (USD or Malawi Kwacha)
4. Day mean calendar day and Week equals to 7 days.
5. We shall sign the Purchase Order, if issued, within three (3) days of receipt from MCA-Malawi.

Our above-mentioned cost includes all costs needed to provide service as per the requirement of Technical Specifications and Conditions of Contract attached with this ITQ.

Our Quotation is valid for **60 days** from the date of submission.

Attached is documentary proof authorizing the signatory to act on behalf of the Bidder.

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

Name of the Signatory: \_\_\_\_\_

Position of the signatory in Organization: \_\_\_\_\_

Name of the Organization: \_\_\_\_\_

Email: \_\_\_\_\_

Phone #: \_\_\_\_\_

Date: \_\_\_\_\_



**ANNEX 3**

**GOVERNMENT-OWNED ENTERPRISE CERTIFICATION FORM**

Government-Owned Enterprises are not eligible to compete for MCC-funded contracts. Accordingly, GOEs (i) may not be party to any MCC-funded contract for goods, works, or services procured through an open solicitation process, limited bidding, direct contracting, or sole source selection; and (ii) may not be pre-qualified or shortlisted for any MCC-funded contract anticipated to be procured through these means.

This prohibition does not apply to Government-owned Force Account units owned by the Government of the MCA Entity’s country, or Government-owned educational institutions and research centers, or any statistical, mapping or other technical entities not formed primarily for a commercial or business purpose, or where a waiver is granted by MCC in accordance with Part 7 of MCC’s Program Procurement Guidelines. The full policy is available for your review on the Compact Procurement Guidelines page at the MCC Website ([www.mcc.gov](http://www.mcc.gov)). As part of the eligibility verification for this procurement, **please fill in the form below to indicate the status of your entity.**

For purposes of this form, the term “Government” means one or more governments, including any agency, instrumentality, subdivision or other unit of government at any level of jurisdiction (national or subnational).



**GOVERNMENT-OWNED ENTERPRISE  
CERTIFICATION**

**Full Legal Name of Bidder:**

\_\_\_\_\_

**Full Legal Name of Bidder in Language and Script of Country of Formation** (if different from above):

\_\_\_\_\_

**Address of Principal Place of Business or Chief Executive Office of Bidder:**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Full Name of Three (3) Highest Ranking Officials of Bidder** (for any Bidder that is an entity):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Full Legal Name(s) of Parent Entity or Entities of Bidder** (if applicable; if Bidder has no parent, please so state):

---

**Full Legal Name(s) of Parent Entity or Entities of Bidder in Language and Script of Country of Formation** (if applicable and if different from above):

---

**Address(es) of Principal Place of Business or Chief Executive Office of Parent Entity or Entities of Bidder** (if applicable):

---

---

---

- 1) Does a Government own a majority or controlling interest (whether by value or voting interest) of your shares or other ownership interest (whether directly or indirectly and whether through fiduciaries, agents or other means)?

Yes  No

- 2) If your answer to question 1 was yes, are you a Government-owned:

a. Force Account unit Yes  No

b. Educational institution Yes  No

c. Research center Yes  No

d. Statistical entity Yes  No

e. Mapping entity Yes  No

f. Other technical entities not formed primarily for a commercial or business purpose  
Yes  No

- 3) Regardless of how you answered question 1, please answer the following:

- a. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government?

Yes  No

If yes, describe:

---

- b. Has a Government granted to you any special or exclusive legal or economic rights or benefits that may alter the competitiveness of your goods, works or services or otherwise influence your business decisions?

Yes  No

If yes, describe:

---

- c. Does a Government have the ability to direct or decide any of the following with respect to you:

- i. any reorganization, merger, or dissolution of you or the formation or acquisition of any subsidiary or other affiliate by you

Yes  No

- ii. any sale, lease, mortgage, pledge, or other transfer of any of your principal assets, whether tangible or intangible and whether or not in the ordinary course of business  
Yes  No
- iii. the closing, relocation, or substantial alteration of the production, operational, or other material activities of your business  
Yes  No
- iv. your execution, termination, or non-fulfillment of material contracts  
Yes  No
- v. the appointment or dismissal of your managers, directors, officers or senior personnel or otherwise participate in the management or control of your business  
Yes  No

4) Have you ever been Government-owned or controlled? Yes  No

5) If your answer to question 4 was yes, please answer the following questions

- a. How long were you Government-owned? \_\_\_\_\_
- b. When were you privatized? \_\_\_\_\_
- c. Do you receive any subsidy or payment (including any form of subsidized credit) or any other form of assistance (financial or otherwise) from a Government?  
Yes  No

If yes, describe:

\_\_\_\_\_

- d. Even though not majority or controlling, does a Government continue to hold any ownership interest or decision making authority in you or your affairs?  
Yes  No

If yes, describe:

\_\_\_\_\_

- e. Do you send any funds to a Government other than taxes and fees in the ordinary course of your business in percentages and amounts equivalent to other non-Government-owned enterprises in your country that are engaged in the same sector or industry? Yes  No

If yes, describe: \_\_\_\_\_

Participants are advised that:

1. Prior to announcing the winning bidder or consultant or any list of pre-qualified bidders or shortlisted consultants for this procurement, the MCA Entity will verify the eligibility of such bidder(s) or consultant(s) with MCC. MCC will maintain a database (internally, through subscription services, or both) of known GOEs and each winning or pre-qualified bidder and winning or shortlisted consultant subject to this provision will be compared against the database and subject to such further due diligence as MCC may determine necessary under the circumstances.

2. Any misrepresentation by any entity submitting a bid or proposal for this procurement may be deemed a “fraudulent practice” for purposes of the MCC Program Procurement Guidelines and any other applicable MCC policy or guidance, including MCC’s Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

3. Any entity that is determined by MCC to have organized itself, subcontracted any part of its MCC-funded contract, or otherwise associated itself with any other entity for the purpose of, or with the actual or potential effect of, avoiding or otherwise subverting the provisions of the

MCC Program Procurement Guidelines may be deemed to be a GOE for all purposes of those Guidelines.

4. Any credible accusation that any entity submitting a bid or proposal for this procurement is a GOE ineligible to submit a bid or proposal in accordance with the MCC Program Procurement Guidelines will be subject to review in a bid challenge in accordance with those Guidelines and the MCA Entity's Bid Challenge System.

I hereby certify that the information provided above is true and correct in all material respects and understand that any material misstatement, misrepresentation or failure to provide the information requested in this certification may be deemed a "fraudulent practice" for purposes of the MCC Program Procurement Guidelines and other applicable MCC policy or guidance, including MCC's Policy on Preventing, Detecting and Remediating Fraud and Corruption in MCC Operations.

**Authorized Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name of Signatory:** \_\_\_\_\_

***Note: All Bidders must complete and sign the Government-Owned Enterprise (GEO) Certification Form and submit it with their quotation. The form should be filled by typing and the name of the person appearing should be complete name.***

**ANNEX 4**

**SAMPLE CONTRACT**

**I. AGREEMENT**

This CONTRACT AGREEMENT (hereinafter called this “Contract”) is made this ..... day of....., 2014, between the **Millennium Challenge Account-Malawi** (hereinafter called the “MCA Entity”), on the one part, and ..... (hereinafter called the “Contractor”), on the other part, (collectively referred to as the “Parties”).

**RECITALS**

**WHEREAS** the Millennium Challenge Compact between the United States of America, acting through the Millennium Challenge Corporation (“*MCC*”), and the Government of Malawi (the “*Government*”) signed on April 7, 2011 (the “*Compact*”) sets forth the general terms on which MCC will provide assistance of up to Three Hundred and Fifty Million Seven Hundred Thousand United States Dollars (US\$350,700,000) (“*MCC Funding*”) to the Government for a program to reduce poverty through economic growth in Malawi (the “*Program*”);

**AND WHEREAS** the Government incorporated the MCA Entity as a public trust under the Trustees Incorporation Act (Cap 5:03) of the Laws of Malawi, to act as its designee in the supervision, management, administration and implementation of the Program;

**AND WHEREAS:**

- (a) The MCA-Malawi, intends to apply a portion of the proceeds of MCC Funding to eligible payments under this Contract. Payments made under this Contract will be subject, in all respects, to the terms and conditions of the Compact and related documents, including restrictions on the use, and conditions to disbursement, of MCC Funding. No party other than the Government and the MCA Entity shall derive any rights from the Compact or have any claim to the proceeds of MCC Funding; and
- (b) The MCA -Malawi is desirous that certain Works should be executed by the Contractor, viz. **Renovation of Archives Storage Facilities at NIS**, and has accepted a Quote by the Contractor for the execution and completion of such Works and the remedying of any defects therein; and
- (c) The Contractor, having represented to the MCA -Malawi that it has the required technical resources, has agreed to carry out the works and remedy any defects on the terms and conditions set forth in this Contract.

**NOW THEREFORE**, the Parties to this Contract agree as follows:

In consideration of the payments to be made by the MCA-Malawi to the Contractor as set forth in this Contract, the Contractor hereby covenants with the MCA-Malawi to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.

Subject to the terms of this Contract, the MCA-Malawi hereby covenants to pay the Contractor, the Contract Price of ..... or such other sum as may become payable pursuant to the provisions of this Contract at the times and in the

manner prescribed by this Contract.

The Conditions of Contract and the Appendices hereby attached shall form part of this Contract.

**IN WITNESS** whereof the Parties hereto have caused this Contract to be executed in accordance with the Laws of Malawi as of the day, month and year first indicated above.

For and on behalf of:

**Millennium Challenge Account - Malawi:**

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

Date: \_\_\_\_\_

**Dye B. Mawindo  
Chief Executive Officer**

Witnessed By:

Full Name: \_\_\_\_\_

Designation: \_\_\_\_\_

For and on behalf of:

\_\_\_\_\_  
[Signature of Authorized Representative]

Witnessed By:

Full Name: \_\_\_\_\_

Designation: \_\_\_\_\_

## II. CONDITIONS OF THE CONTRACT

1. **Start Date:** Shall be the date of signing of the Contract by both parties.
2. **Duration of Completion/Intended Completion Date:** The works must be completed within 60 days after Start Date.
3. **Environmental, Health and Safety:** The Contractor shall, throughout the execution and completion of the Works, take all care to protect the Environment, Health and Safety of all the persons. The Contractor should not carry out work such that it could be danger to persons. The Contractor should provide appropriate Protective clothing and equipment as necessary.
4. **Early Warning:** The Contractor shall warn the Project Manager at the earliest opportunity of specific events or circumstances that may adversely affect the quality of the Works, increase the Contract price, or delay the execution of the Works.
5. **Identifying Defects:** The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may be defected.
6. **Correction of Defects:** The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion. The Defects Liability Period shall be extended for as long as Defects remain to be corrected. Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice.
7. **Defects Liability:** 365 days from the date of completion.
8. **Uncorrected Defects:** If the Contractor has not corrected a Defect within the time specified in the Project Manager's notice, the Project Manager will assess the cost of having the Defect corrected, and the Contractor will pay this amount or this amount will be deducted from retention money.
9. **Price and Fixed Price:** The Contractor shall Construct the works as per conditions of Contract, technical specification, drawings and provision of this contract, MCC program procurement guidelines and to the schedule and completion date and price indicated in the Contract. The price indicated in Contract is firm and fixed and not subject to any adjustment during contract performance.
10. **Bill of Quantities:** The Bill of Quantities shall contain items for the construction, work to be done by the Contractor. The Bill of Quantities is used to calculate the Contract Price. The Contractor shall be paid for the quantity of the work done at the rate in the Bill of Quantities for each item. The rate stated in the Bills of Quantities are fully loaded rate, that is it including all of the Contractor's cost (including all preliminary expenditure, e.g. on environmental control, provision of health and safety), overheads and profits and in the estimation of the Applicant/Contractor shall be adequate for undertaking the whole of the specified Work items in the location indicated within duration of the Contract for Work execution including Defects Liability Period.

11. **Performance Guarantee:** The Contractor shall, within fourteen (14) days of signing of the Contract, provide a Performance Security for the due performance of this Contract for an amount equal to **10% of the Contract Price**. The proceeds of the Performance Security shall be payable to the Purchaser/Employer as compensation for any loss resulting from the Contractor's failure to complete its obligations in accordance with the terms of this Contract. The Performance Security should be in the format attached with this Contract and it should be valid until twenty-eight (28) days after the Defects Liability Period as per duration of completion stated under the Contract.
12. **Advance Payment :** The Employer shall make a Total advance payment of fifteen percent (15 %) of the Accepted Contract Amount, subject to the provision of unconditional bank guarantee, expressed in the currency of the Contract or equivalent in one of the contract currency to the same value. The advance payment shall be repaid through percentage deductions in the Payment Certificates. Deductions shall commence when the total of all certified interim payments (excluding the advance payment) exceeds ten per cent (15%) of the Accepted Contract Amount; and deductions shall be made at the amortisation rate of one quarter (25%) of the amount of each Payment Certificate (excluding the advance payment and deductions and repayments of retention) in the currencies and proportions of the advance payment, until such time as the advance payment has been repaid. The advance shall be recovered by the time the payment reaches 70% of the accepted contract amount.
13. **Payment Certificates:** The Contractor shall submit to the Project Manager the invoice every month and after completing the works. The invoice should be based on the rates stated in the Contract and the actual works carried out. Project Manager, after approval, will pass it to the MCA-Malawi Fiscal Agent for payment. When invoicing to the MCA-Malawi, the value of the invoice shall be in currency of the Contract.
14. **Payments:** MCA-Malawi shall pay the Contractor the amounts certified by the Project Manager within 30 days of the date of acceptance of the payment certificate by the Project Manager. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be 1% annually for the amount paid late to the Contractor. It will be calculated from the date by which the payment should have been made up to the date when the late payment is made. Items of the Works for which no rate or price has been entered in will not be paid for by the Employer and shall be deemed covered by other rates and prices in the Contract. Retention money of 5% of each payment certificate will be deducted from each monthly payment statement and half of which will be released at the completion of work and half will be released after defects liability period.
15. **Liquidated Damages:** The Contractor shall pay liquidated damages to the Employer a sum equivalent to half of a percent (0.5%) of the Contract price for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed ten percent (10%) of the Contract Price. Once the maximum amount of liquidated damage is reached, the Employer may consider canceling the Contract. The contractor is bound to provide the amount of liquidated damage, which will be recovered from the contractor in case of his/their non-performance. The Employer may deduct liquidated damages from payments due to the Contractor and Performance Guarantee. Payment of liquidated damages shall not affect the Contractor's liabilities. If the Intended Completion Date is extended after liquidated damages have been paid, the



Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

16. **Completion**: The Contractor shall request the Project Manager to issue a certificate of Completion of the Works, and the Project Manager will do so upon deciding that the work is completed. Final Completion Certificate will be issued only after completion of defects liability period.

17. **The Project/Contract Manager for this project is:**

**Infrastructure Director**

MCA- Malawi

Millennium Challenge Account Malawi

Pamodzi House

Off Presidential Drive

P. O. Box 31513

Lilongwe 3

Malawi

Tel: (O) +265 (0) 177-4303

Fax: (F) +265 (0) 177-4301

website: [www.mca-m.gov.mw](http://www.mca-m.gov.mw).

The Contractor should liaise on all Contracts matters with the Project/Contract Manager. If the Contractor will not carry out the work as per Contract Provision, the Project Manager has right to stop the Contractor carrying the work without any contractor's claim to Employer.

18. **Technical Specifications and Drawings**: The contractor needs to carry out the Works as per specification and Drawings stated or attached to the contract, and maintain the quality of the Works at all times.

19. **Special Provisions**: The Contractor should all adhere to the rules and regulations of the MCC Program Procurement Guidelines in force at that time.

20. **Failure to Perform and Management of Defects**: The MCA-Malawi may cancel, at any time, this Contract if the Contractor fails to carry out the work in accordance with the terms and conditions of Contract. The Contractor undertakes that during the defects liability period any defects will be rectified within one week of the date of notification of the defect. The Contractor agrees and attests that it shall devote commercially reasonable efforts to the fulfillment of the duties outlined in the Contract, any attachment thereto, and in these terms and conditions.

21. **Assignment**: The MCA-Malawi may assign the whole or any part, or any benefit or interest in or under, the Contract to another person or entity of the Government (or another entity designated by the Government) without the consent of the Contractor at any time after the Termination, or Prior to end of Compact. MCA-Malawi shall notify the Contractor within 10 days of any such assignment. Any such assignment shall not be considered an amendment/modification or subcontracting under the Contract. In case of assignment the Contractor at their cost will submit revised Performance Security, Advance Payment Guarantees, Retention Guarantees (if applicable) and Insurance in the name of Assignee (New Employer)

22. **Corruption, Fraud; Collusion; Coercion; and Prohibited Practices**: The MCA-

Malawi requires that the Contractor observe the highest standard of ethics during the procurement and execution of this Contract. In addition, the MCA-Malawi may cancel this Contract if it determines at any time that the Contractor engaged in corrupt, fraudulent, collusive, coercive or prohibited practices during the selection process or the execution of this Contract. The Contractor represents and warrants that neither the Contractor nor any of the Contractor's employees or agents, to the Contractor's actual knowledge during the prior five (5) years, has ever (or will have had during the term of this order) been convicted in any jurisdiction of the United States of America or elsewhere of any felonies or found in violation of any ethical codes or standards applicable to the Contractor's line of business.

23. **Notices:** Any notice, request or consent given by one party to the other pursuant to this Contract shall be in writing, to the attention of the signatory of this Contract, and sent to the address specified in this Contract. A notice shall be effective when delivered or on the notice's effective date, whichever is later. A party may change its address for notice hereunder by giving the other party notice in writing of such change sent to the address specified in this Contract.
24. **Taxes:** The Works Contractor's Price of Works is inclusive of local taxes and levies for all Malawian Local Contractors. However they should state the amount of tax and levy separately.
25. **Eligible Countries:** Persons or entities that have been prohibited from participation in procurements funded with The World Bank assistance or debarred or suspended from participation in procurements funded by the US Federal Government or otherwise prohibited by applicable United States law or Executive Order or United States policies including under any then-existing anti-terrorist policies are not eligible to receive funding under this Contract. It is the legal responsibility of the Contractor to ensure compliance with these Executive Orders and Laws.
26. **Disputes:** Any dispute arising out of this Contract, which cannot be amicably settled between the Parties, shall be referred to arbitration in accordance with the Arbitration Act (Cap 6:03) of the Laws of Malawi.
27. **Insurance:** The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period of Contract, in the amounts stated below for the following events which are due to the Contractor's risks:
  - (a) loss of or damage to the Works, Plant, and Materials: **80% of the Contract Price**
  - (b) loss of or damage to Equipment: **10% of the Contract Price**
  - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with this Contract: **5% of the Contract Price**
  - (d) personal injury or death (i) for the Contractor's employees: **USD 200,000 and (ii) of other people: USD 200,000**

Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.

If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the

Contractor or, if no payment is due, the payment of the premiums shall be a debt due from the Contractor to the Employer.

Alterations to the terms of insurance shall not be made without the approval of the Project Manager.

Both parties shall comply with any conditions of the insurance policies.

**III. APPENDICES**

**APPENDIX A**  
**CONTRACTORS QUOTATION**

## APPENDIX B

### General Provisions

Capitalized terms that are used but not defined in this Annex shall have the meaning given to them in the GCC, the PCCs, or in the Compact or related agreements.

The Employer is responsible for the oversight and management of the implementation of the Compact on behalf of the Government and intends to apply a portion of the proceeds of the Compact to eligible payments under the Contract, provided that (a) such payments will only be made at the request of and on behalf of the Employer and as authorized by the Fiscal Agent, (b) MCC shall have no obligations to the Contractor under the Compact or the Contract, (c) such payments will be subject, in all respects, to the terms and conditions of the Compact, and (d) no party other than the Government and the Employer shall derive any rights from the Compact or have any claim to MCC Funding.

#### A. 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. As such, MCC has no liability under the Contract and is immune from any action or proceeding arising under or relating to the Contract. In matters arising under or relating to the Contract, MCC is not subject to the jurisdiction of the courts or any other juridical or other body of any jurisdiction.

2. MCC Reserved Rights.

(a) Certain rights are expressly reserved to MCC under the Contract, the Compact and other related Compact documents, including the right to approve the terms and conditions of the Contract, as well as any amendments or modifications hereto, and the right to suspend or terminate the Contract.

(b) MCC, in reserving such rights under the Contract, 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 the Contract.

(c) MCC may, from time to time, exercise its rights, or discuss matters related to the Contract with the Parties or the Government, as appropriate, jointly or separately, without thereby incurring any responsibility or liability to any party.

(d) Any approval (or failure to approve) or exercise of (or failure to exercise) any rights by MCC shall not bar the Government, the Employer, MCC or any other person or entity from asserting any right against the Contractor, or relieve the Contractor of any liability which the Contractor might otherwise have to the Government, the Employer, 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 the Contract.

#### B. Limitations on the Use or Treatment of MCC Funding

The use and treatment of MCC Funding in connection with the Contract does not, and shall not, violate any limitations or requirements specified in the Compact 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.

### **C. Procurement**

The Contractor shall ensure that all procurements of goods, works or services under, related to or in furtherance of the Contract shall be consistent with the general principles set forth in the Compact and in the MCC Program Procurement Guidelines from time to time in effect as posted on the MCC website at [www.mcc.gov](http://www.mcc.gov). The Contractor shall comply with the eligibility requirements related to prohibited source or restricted party provisions in accordance with U.S. Laws, regulations and policy, applicable World Bank policies or guidelines and in accordance with other eligibility requirements as may be specified by MCC or the Employer.

### **D. Reports and Information; Access; Audits; Reviews**

Reports and Information. The Contractor shall maintain such books and records and provide such reports, documents, data or other information to the Employer in the manner and to the extent required by the Compact or related documents, and as may be reasonably requested by the Employer from time to time in order to comply with its reporting requirements arising under the Compact or related documents. MCC may freely use any information it receives in any report or document provided to it in any way that MCC sees fit. The provisions of the Compact and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Contractor as if the Contractor were the Government under the Compact.

Access; Audits and Reviews. Upon MCC's request, the Contractor shall permit authorized representatives of MCC, an authorized Inspector General of MCC, the United States Government Accountability Office, any auditor responsible for an audit contemplated by the Compact or conducted in furtherance of the Compact, and any agents or representatives engaged by MCC or the Government to conduct any assessment, review or evaluation of the Program, the opportunity to audit, review, evaluate or inspect activities funded by MCC Funding. The provisions of the Compact and related documents that are applicable to the Government in this regard shall apply, *mutatis mutandis*, to the Contractor as if the Contractor were the Government under the Compact.

Application to Providers. The Contractor shall ensure the inclusion of the applicable audit, access and reporting requirements from the Compact in its contracts or agreements with other providers in connection with the Contract.

### **E. Compliance with Anti-Corruption, Anti-Money Laundering, Terrorist Financing, and Trafficking in Persons Statutes, and Other Restrictions**

1. The Contractor shall ensure that no payments have been or will be made by the Contractor to any official of the Government, the Employer, or any third party (including any other government official) in connection with the Contract 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 the Contract, including any local Laws. The Contractor affirms that no payments have been or will be received by any official, employee, agent or representative of the Contractor in connection with the Contract 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 the Contract, including any local Laws.

2. The Contractor 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 Contractor 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 U.S. Department of Treasury's Office of Foreign Assets Control, which list is available at [www.treas.gov/offices/enforcement/ofac](http://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](http://www.sam.gov), or (iv) on such other list as the Employer 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.

3. The Contractor shall ensure that its activities under the Contract comply with all applicable U.S. Laws, regulations, executive orders, and policies regarding money laundering, terrorist financing, trafficking in persons, 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. § 1956, 18 U.S.C. § 1957, 18 U.S.C. § 2339A, 18 U.S.C. § 2339B, 18 U.S.C. § 2339C, 18 U.S.C. § 981, 18 U.S.C. § 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 Employer, the Fiscal Agent, or the Bank, as may be applicable. The Contractor 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](http://www.mcc.gov). The Contractor shall (A) conduct the monitoring referred to in this paragraph on at least a quarterly basis, or such other reasonable period as the Employer or MCC may request from time to time and (B) deliver a report of such periodic monitoring to the Employer with a copy to MCC.

4. Other restrictions on the Contractor shall apply as set forth in the Compact or related documents with respect to any activities in violation of other applicable United States Laws, regulations, executive orders, or policies, any misconduct injurious to MCC or the Employer, 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 or any related document or that materially and adversely affects the Program assets or any Permitted Account.

## **F. Publicity, Information, and Marking**

1. The Contractor shall cooperate with the Employer and the Government to provide the appropriate publicity to the goods, works and services provided under the Contract, including identifying Program activity sites and marking Program assets as goods, works and services funded by the United States Government, acting through MCC, all in accordance with the MCC Standards for Global Marking available on the MCC website at <http://www.mcc.gov>; provided, however, that any press release or announcement regarding MCC or the fact that MCC is funding the Program or any other publicity materials referencing MCC, shall be subject to MCC's prior written approval and must be consistent with any instructions provided by MCC from time to time in relevant Implementation Letters.
2. Upon the termination or expiration of the Compact, the Contractor shall, upon MCC's request, cause the removal of any such markings and any references to MCC in any publicity materials.

## **G. Insurance**

The Contractor shall obtain insurance, performance bonds, guarantees or other protections appropriate to cover against risks or liabilities associated with performance of the Contract. The Contractor shall be named as payee on any such insurance and the beneficiary of any such performance bonds and guarantees. The Employer, and at MCC's request MCC, shall be named as additional insureds on any such insurance or other guarantee, to the extent permissible under applicable Laws. The Contractor 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, works and services; provided, however, that, at MCC's election, such proceeds shall be deposited in an account as designated by the Employer and acceptable to MCC or as otherwise directed by MCC.

## **H. Conflict of Interest**

The Contractor shall ensure that no officer, director, employee, affiliate, contractor, subcontractor, agent, advisor, or representative of the Contractor participates 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 the Contract, 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 the Contract and MCC the conflict of interest and, following such disclosure, the parties to the Contract agree in writing to proceed notwithstanding such conflict. The Contractor shall ensure that none of its officers, directors, employees, affiliates, contractors, subcontractors, agents, advisors, or representatives 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 the Contract 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. The Contractor shall ensure that none of its officers, directors, employees, affiliates, contractors, subcontractors, agents, advisors or representatives engage in any activity which is, or gives the appearance of being, a conflict of interest in connection with the Contract. Without limiting the foregoing, the Contractor shall comply, and ensure compliance, with the applicable conflicts of interest and ethics policies of the Employer as provided by the Employer to the Contractor.



**I. Inconsistencies**

In the event of any conflict between the Contract and the Compact and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, the term(s) of the Compact and/or the Program Implementation Agreement, Procurement Agreement, or Disbursement Agreement, as applicable, shall prevail.

**J. Other Provisions**

The Contractor shall abide by such other terms or conditions as may be specified by the Employer or MCC in connection with the Contract.

**K. Flow-Through Provisions**

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