



KUWAIT OIL COMPANY (K.S.C.)

RFP NO. 2038690

GC 32 - NEW GATHERING CENTRE FOR SEK

INSTRUCTIONS TO THE BIDDER

CENTRAL TENDERS COMMITTEE
INSTRUCTIONS TO THE BIDDER

1.0 GENERAL

1.1 KUWAIT OIL COMPANY (K.S.C.) (hereinafter called the “Company”) intends to construct new Facilities, which comprise the GC-32: New Gathering Centre for SEK and all associated works as further specified or otherwise described in the enclosed documents.

1.2 The Tender Documents are comprised of the following:

1.2.1 Invitation to Bid

1.2.2 Instructions to the Bidder

Appendix No. 1	Specimen of Bid Bond
Appendix No. 2	Specimen of Performance Bond
Appendix No. 3	Bidder’s Query Form
Appendix No. 4	Optional Consortium Partners
Appendix No. 5	Declaration form for Site Visit

1.2.3 Commercial Proposal

Form of Tender	
Attachment No. 1	Breakdown of the Lump Sum Contract Price
<i>Attachment No.1A</i>	<i>Not used</i>
<i>Attachment No.1B</i>	<i>Not used</i>
Attachment No. 2	Schedule of Unit Rates
Attachment No. 3	Breakdown of Major Elements Comprising the Lump Sum Contract Price
Attachment No. 4	Process Chemicals Consumption
Attachment No. 5	Monthly Cash Flow Forecast
Attachment No. 6	Statement and Certificate
Attachment No. 7	Export Credits - Goods and Services
Attachment No. 8	Declaration Form
Attachment No. 9	List of Locally Manufactured Materials
Attachment No. 10	List of Firms for EIA Studies
Attachment No. 11	Not used
Attachment No. 12	Certificate of Agents Compliance with Council of Ministers Resolution No 1104/2008 as amended by Council of Ministers Resolution No.1028/2014

Attachment No. 13	Not Used
Attachment No. 14	Authority
Attachment No.15	Articles of Incorporation.
Attachment No.16	Consortium

1.2.4 Technical Proposal

Attachment No. 17	Technical Proposal Sections 1.0 – 20.0
Exhibit 1 -	Declaration for Verification and Acceptance of FEED
Exhibit 2 -	Declaration for Verification and Acceptance of Supplementary Letter(s)

1.2.5 The following Contract documents in order of precedence:

Contract Agreement	
Particular Conditions of Contract	
General Conditions of Contract	
Appendix A	Contract Price and Payment
Appendix B	Facilities Performance Guarantees
Appendix C	Facilities Completion and Acceptance
Appendix D	Project Administration and Coordination Procedure
Appendix E	Scope of Work and Description of Services
Appendix F	Technical Specification
Appendix G	KOC List of Approved Manufacturers
Appendix H	KOC List of Approved Contractors for Categories of Works and Selected List of CTC Approved Civil and Roads and Sanitary Works Contractors
Appendix I	Ministry of Commerce & Industry – Kuwait Industrial Guide

- 1.3 The bidder shall access the Company website and obtain documents referred to in, but not attached to the Tender by accessing the string: www.kockw.com; e-Tendering; Commercial Documents. However, missing drawings, sketches and the like must be sought in writing from Central Tenders Committee (“CTC”) and the correspondence copied to the concerned Company Team Leader Contracts (I). Where any pages of the Tender Documents are duplicated or missing or the reproduction is not clear or any doubt exists as to the full extent and meaning of any description or the breakdown of the Contract Price or attachments to the Form of Tender or if any part of this Tender contain any errors, the bidder shall notify CTC and the correspondence copied to the Company Team Leader Contracts (I) before submission of the bid and the Company may issue clarifications or amendments if necessary.
- 1.4 The provisions of Law No. 37/1964 governing Public Tenders and any amendments thereto shall form an integral part of the Tender Document and shall be construed as supplementary to all terms and conditions contained therein as appropriate.
- 1.5 The bid shall be clearly typed in the English language. No striking out, erasure or interlineations in the text is allowed. Your attention is particularly drawn to Article 22 of the Law on Public Tenders with respect to the completion of the bid, and there shall be no alterations or erasures on the bid without being explained in writing and initialled.
- 1.6 If the bidder does not wish to bid, please:
- (a) Return the attached documents to the CTC stating its reasons for not participating in the Tender; and
 - (b) Provide a copy of its reasons for not participating in the Tender to the Company Team Leader Contracts [I] on Fax. No [+965 23984927].

2.0 INSTRUCTIONS RELATING TO BID SUBMISSION

- 2.1 The Company does not bind itself to accept the lowest or any bid, nor to assign a reason for rejection of any bid. Bids may be considered non-responsive and may be disqualified or rejected for any reason, including circumstances where there is evidence of collusion between bidders.
- 2.2 The bidder shall note that the Company will only enter into a contract with Kuwaiti companies registered with the Kuwait Ministry of Commerce, or with:
- a) non-Kuwaiti companies registered in their country of origin with the registrar of companies and/or under the relevant prevailing laws that apply to the registration of companies and represented by a Kuwaiti agent; or
 - b) with non-Kuwaiti companies registered as in paragraph 2.2 (a) above who are in partnership with a Kuwaiti registered company.

- 2.3 The bid shall be submitted by a single corporate entity, or at the bidder's discretion and subject to compliance with Clause 4 (Consortium) herein, by a non-incorporated association of companies/partners (a "Consortium").
- 2.4 The bidder shall comply with the restrictions laid down by Kuwait Import and Customs Laws and Regulations in relation to imported equipment and their spares.
- 2.5 The bid shall be quoted in figures and in words in Kuwaiti Dinars, and all payments shall be made in Kuwaiti Dinars.
- 2.6 A partial or incomplete bid shall not be considered. The bid shall be the responsibility of the bidder, and no relief or consideration shall be given for errors or omissions in the bid price or proposals or in the computation of same. If any errors or omissions are found in the computation of the Bid Price in either Attachment 1 (Breakdown of Contract Price) or Attachment 3 (Breakdown of Major Elements comprising the Lump Sum Contract Price) to the Form of Tender, then the bidder will be requested to correct such error without any modification to the Bid Price.
- 2.7 The Company shall reimburse the second and third lowest bidders, which in its sole opinion, are fully compliant both technically and commercially to the Tender Documents, the sums of **One Hundred Thousand Kuwaiti Dinars (KD 100,000.00)** each. The Company shall make such payments to the bidders upon award of a Contract to the successful bidder. In the unlikely event of the subject Tender process being cancelled for whatsoever reason, the contents of this provision shall not apply and the bidders will not be entitled to claim for any associated losses.
- 2.8 Before submitting its bid, the bidder shall carefully examine the Tender Documents and shall acquaint itself fully with existing oil production facilities, existing buildings and structures, Site conditions, information and data provided by the Company, applicable regulations regarding access to the Site including the Company's HSE Management System and HSEMS Procedures and other factors likely to affect the bid. The bidder shall be deemed to have taken all these factors into consideration before submitting the bid.
- 2.8.1 The bidder shall verify the FEED for technical accuracy and for any discrepancy, error or conflict therein to ensure that the FEED is not in conflict with and/or deficient in such a way as to prevent accomplishment of the stated objectives or other requirements of the Contract (including compliance with Performance Guarantees) and will, if adopted pursuant to the terms of Clause 3.4 (Verification of FEED) of the General Conditions of Contract, enable the Contractor to be in full compliance with its obligations under the Contract. The bidder shall submit a FEED Acceptance Statement as per Clause 14.0 of Attachment No. 17 to Form of Tender.

- 2.8.2 If the bidder identifies any clarification, discrepancy, deficiency, error or conflict or any technical inaccuracy in the FEED information provided, it shall notify the Company using the Bidder's Query Form (Appendix No.3 to Instructions to the Bidder) and submit the queries in accordance with Clauses 3.5 & 3.6 herein.
- 2.8.3 Company shall respond to queries from the bidder as appropriate via Supplementary Letters.
- 2.9 The bidder shall sign the Form of Tender and each of its Attachments. The person or persons signing for the bidder must have the authority to bind the bidder, proof of which must be included in Attachment 14 (Authority) to the Form of Tender. The name of each signatory shall be typed or otherwise clearly printed below each signature. In the event where the signatory is a representative, the bid must be accompanied by a power of attorney in favour of the signatory and included in Attachment 14 (Authority) to the Form of Tender. The two originals of the submitted documents must be the same documents issued by CTC and must bear the CTC stamp. Any deviation shall cause the bid to be discarded in accordance with Article 22 of the Tender Law.
- In the event that the bid is submitted by a Consortium, the Form of Tender and its attachments shall be signed by all members of the Consortium.
- 2.10 The bidder must place the Commercial Proposal of its bid consisting of Form of Tender and its Attachments thereof in the envelopes issued by CTC with the Tender securely sealed with sealing wax and shall clearly mark it with the Tender number and Tender title. The Technical Proposal shall be packed securely and marked with the Tender number and title. Any envelope or package bearing the name or any other marking that indicates the identity of the bidder shall be rejected and returned to the bidder unopened.
- 2.11 The bid envelope or package shall be deposited at CTC before the time and on the date stated in the Tender. Bids received after the bid closing time shall not be considered. After submission of a bid no changes or amendments in the quoted prices shall be made. The bid shall remain open for acceptance and valid from the date of submission until the date ninety (90) days after the appointed submission date and shall be irrevocable and binding from the date of submission up to the date of expiry of its validity. If the bid is withdrawn or ceases to be binding and capable of acceptance during such period, the Company shall be entitled to call on the Bid Bond (Appendix 1) in full.
- 2.12 Only a bid submitted in full accordance with the Tender Documents shall be considered by the Company and it shall not consider bids with any alterations, additions or deletions introduced by the bidder in the bid documents or to the Form of Tender and its Attachments. In this context, the Tender Documents shall be the documents issued herewith modified only to the extent as may be provided for by supplementary letter(s) issued subsequently to the pre-bid meeting in accordance with the provisions set

forth in Clause 3.5 (Additional Instructions) herein. Such supplementary letter(s) will contain any and all modifications the Company is prepared to accept to the proposed Contract. Any bid which contains alternative proposals to that required by the Tender Document unless and otherwise specifically requested in the Tender, or which fails to comply with any of the requirements of this Tender shall be rejected.

- 2.13 Following the deadline for submission of bids, the Company will assess bids for compliance with the Tender Documents. Bids that, in the Company's sole opinion, do not comply shall be rejected.
- 2.14 The Company may alter the appointed time and/or date for submission of bids at any time prior to such date, by notice in writing to all bidders.
- 2.15 The Company may introduce changes to the Tender Documents at any time prior to the appointed date for submission by notice in writing to all bidders. The content of all such addenda shall be taken into account when submitting the bid.

2.16 **Appendix No. 1 - Specimen of Bid Bond**

- 2.16.1 The bidder shall submit a Bid Bond of *KD.5,000,000/- (Kuwaiti Dinars Five Million Only)* valid for ninety (90) days from the bid closing date worded generally in accordance with the specimen wording contained in Appendix 1 (Specimen of Bid Bond) hereto (it is important to note that Bid Bonds submitted to CTC must be in Arabic). The Bid Bond shall be in the form of an unconditional bank guarantee issued by a Kuwaiti bank. The bank guarantee shall be payable to the Central Tenders Committee.

In the event that the bidder submits its bids as part of a Consortium then the bid bond must be issued in the name of the Consortium Lead Member.

- 2.16.2 The bid shall not be considered in the event of failure to submit a Bid Bond. The Company may request the bidder to extend the validity of the Bid Bond at no extra cost to the Company. The Bid Bond of the unsuccessful bidder shall be returned after the Company has entered into a contract with the successful bidder.

2.17 **Appendix No. 2 - Specimen of Performance Bond**

- 2.17.1 The successful bidder must submit a Performance Bond for the due performance of the Contract as security by way of an unconditional bank guarantee issued by a bank licensed to carry out banking business in Kuwait, made payable to Kuwait Oil Company, worded in substantially the same form as the specimen contained in Appendix 2 (Specimen of Performance Bond) hereto, which shall be valid until the issue of the last Final Acceptance Certificate plus six (6) months.

- 2.17.2 In case the successful bidder does not provide the Performance Bond and sign a contract with the Company within seven (7) days of being informed of its bid having been accepted, the bidder may be deemed to have withdrawn and the Company may call and draw down upon the full amount of the Bid Bond.

2.18 **Appendix No. 3 - Bidder's Query Form**

Bidder's Queries, submitted in accordance with Clauses 3.5 and 3.6 (Additional Instructions) herein, shall be submitted in the format shown in this Appendix 3 (Bidders Query Form), in both hard copy and electronic copy. The hard copy shall be faxed, then hand-carried. The bidder shall also submit the editable electronic version of the queries by e-mail to Team Leader Contracts (I) at contactation@kockw.com, copied to rdamodaran@kockw.com and yvnair@kockw.com

2.19 **Appendix No. 4 - Optional Consortium Partners**

The bidder may submit its bid either in its own name or has the option to submit its bid as a Consortium with only one partner selected from the list in Appendix No. 4 (Optional Consortium Partners) hereto. Any such Consortium formation shall be subject to the provisions of Clause 4.0 (Consortium) herein.

The bidder shall note the requirements of Clause 4.0 (**CONSORTIUM**) herein in case of a bid submission by a Consortium.

- 2.20 The bid shall consist of two separate parts, the Commercial Proposal and the Technical Proposal.

2.21 **Commercial Proposal**

The Commercial Proposal shall be submitted in duplicate and shall comprise of the following documents.

In the event the bid is submitted by a Consortium, the Form of Tender and all its attachments shall be signed by both members of the Consortium.

2.21.1 **Form of Tender**

The bidder shall quote on the Form of Tender a bid Price for the Works in Kuwaiti Dinars, and the Form of Tender shall be signed by the person or persons authorised to sign for the bidder and shall be stamped and dated.

a) **Attachment No. 1 - Breakdown of the Contract Price**

The bidder shall complete on the original Attachment No. 1 (Breakdown of the Contract Price) to the Form of Tender (issued as hard copy) in the manner described therein.

The total of the sums entered in Attachment No. 1 (Breakdown of the Contract Price) shall equate to the Tender Price entered in the Form of Tender.

b) **Attachment No. 2 - Schedule of Unit Rates**

The bidder shall quote in Attachment No. 2 (Schedule of Unit Rates) to the Form of Tender unit rates for all categories of personnel, equipment and work indicated in the format provided by the Company. Any changes to the format may render the Bid invalid. These unit rates are solely for the purpose of evaluating any Variations (additive or deductive) issued during the course of the Works subject to the Variation Rules stated in Appendix A (Contract Price and Payment). The unit rates do not form part of the bid Price; however, they shall be taken into consideration during the evaluation of the bid and to that extent, the Company reserves the right to accept, request the rate(s) to be changed or reject the Schedule of Unit Rates, either in whole or in part.

Two hard copies to be provided together with an electronic copy in "Microsoft Excel" format or equivalent saved to DVD and included in bid package.

c) **Attachment No. 3 - Breakdown of Major Elements Comprising the Lump Sum Contract Price**

The bidder shall complete Attachment No. 3 (Breakdown of Major Elements Comprising the Lump Sum Contract Price) to the Form of Tender showing the prices of the major work elements indicated therein retaining the format provided by the Company. The bidder must ensure that all pricing columns shown in this Attachment are filled completely. Any changes to the format may render the Bid invalid. These prices shall be used for the purpose of evaluating any Variations (additive or deductive) during the course of the Contract and shall form the basis of a schedule for payment of the Contract Price related to progress of the Works.

Two hard copies to be provided together with an electronic copy in "Microsoft Excel" format or equivalent saved to DVD and included in bid package.

d) **Attachment No. 4 – Process Chemical Consumption**

The bidder shall complete Attachment No. 4 (Process Chemicals Consumption) to the Form of Tender indicating the Process Chemicals Consumption of the Facilities, which, if awarded the Contract, shall form the basis of Performance Guarantees to be demonstrated by Performance Tests in accordance with Clause 37 (Performance Tests and Guarantees) of the General Conditions of Contract.

e) **Attachment No. 5 - Monthly Cash Flow Forecast**

The bidder shall propose in Attachment No. 5 (Monthly Cash Flow Forecast) to the Form of Tender a monthly cash flow forecast, which shall, in accordance with the provisions therein, and upon approval by the Company, be utilised for the purpose of forecasting cash flow in terms of interim payments.

f) **Attachment No. 6 - Statement and Certificate**

The bidder shall submit as Attachment No. 6 (Statement and Certificate) to the Form of Tender the Statement and Certificate from the Ministry of Commerce and Industry as requested therein.

In the event the bid is submitted by a Consortium, the Statement and Certificate shall be submitted by both members of the Consortium.

g) **Attachment No. 7 - Export Credits - Goods and Services**

The bidder shall submit as Attachment No. 7 (Export Credits – Goods and Services) to the Form of Tender the information requested therein.

h) **Attachment No. 8 - Declaration Form**

The successful bidder, where the law referred to in Clause 3.10 (Additional Instructions) herein is applicable to this Contract at the time of signing the Contract or as becomes applicable to this Contract during the Contract period, must serve on the Superintendent within the time limit specified by such law a declaration in the format set out in Attachment No. 8 (Declaration Form) to the Form of Tender.

In the event the bid is submitted by a Consortium, the Declaration Form shall be submitted by both members of the Consortium.

i) **Attachment No. 9 - List of Locally Manufactured Materials**

The bidder shall confirm in its bid that it is in compliance with the provisions of Clause 17.2 (Local Industry Preference) of the General Conditions of Contract and shall provide the following:

- (i) Details of the locally manufactured Materials which it proposes to utilise in the Works;
- (ii) details of any imported Materials that the bidder intends to utilise, pursuant to Clause 17.2.5 (Local Industry Preference) of the General Conditions of Contract, in preference to available locally manufactured Materials, supported by evidence, which shall be provided to Company should the bidder be awarded this Contract, to demonstrate compliance with the requirements of Clause 17.2 (Local Industry Preference) of the General Conditions of Contract;

In the event that the bidder does not provide details of any imported Materials and is subsequently awarded this Contract, the Contractor shall be obliged to demonstrate its compliance with the requirements of Clause 17.2 (Local Industry Preference) of the General Conditions of Contract.

j) **Attachment No. 10 - List of Firms for EIA Studies**

With reference to Clause 16.1.3 (Engineering and Design – General Provisions) of the General Conditions of Contract, the bidder shall provide details of the firms to be utilised for EIA studies selected from Enclosure 1 to Exhibit B of Appendix E, which are registered with and approved by the Kuwait Environmental Public Authority - KEPA.

k) *** Attachment No. 11 – Not used**

l) **Attachment No. 12 – Certificate of Agents Compliance with Council of Ministers Resolution No 1104/2008 as amended by Council of Ministers Resolution No.1028/2014.**

Without prejudice to any provisions contained in the Contract with respect to Kuwaitisation (as applicable), the bidder shall confirm its Agent's compliance with Council of Ministers Resolution No. 1104/2008 as amended by Council of Ministers Resolution No.1028/2014 pertaining to the employment of Kuwaiti Nationals in the percentage specified under the said law. In the event bidder's Agent does not meet such stipulated percentage, then the bid shall be disqualified.

The bidder shall confirm on Attachment No. 12 (Certificate of Agents Compliance with Council of Ministers Resolution No. 1104/2008 as amended by Council of Ministers Resolution No.1028/2014) to Form of Tender its Agent's compliance with Council of Ministers Resolution No. 1104/2008 as amended by Council of Ministers Resolution No.1028/2014 pertaining to employment of Kuwaiti Nationals in the percentages specified in the Law.

The bidder shall submit the necessary certificate from its Agent along with its bid to prove that the said requirement is fulfilled. This Certificate shall be the yearly Certificate issued by the Ministry of Social Affairs certified by the Under Secretary.

Failure to submit the Certificate will lead to disqualification of the bid by CTC.

In the event the bid is submitted by a Consortium, the Certificate of Agents Compliance shall be submitted by both members of the Consortium.

m) **Attachment No. 13 – Not used**

n) **Attachment No. 14 - Authority**

The bidder's attention is drawn to Clause 2.9 (Instructions Relating to Bid Submission) herein, whereby the bidder shall provide proof of authority of a signatory to bind the bidder in the form of board resolution or the like, or in the event that signatory is a representative, a duly executed power of attorney (or equivalent document required by the laws of the bidder's country of incorporation) authorising the signatory to sign the bid on the bidder's behalf.

In the event the bid is submitted by a Consortium, Authority designation needs to be signed off by both members of the Consortium.

o) **Attachment No 15 – Articles of Incorporation**

The bidder shall provide details of its ownership in the form of articles of incorporation (or equivalent document required by the laws of the bidder's country of incorporation).

In the event the bid is submitted by a Consortium, the Articles of Incorporation shall be submitted by both members of the Consortium.

p) **Attachment No. 16 - Consortium**

The bidders who are a Consortium are to provide details in this attachment to comply with the requirements of Clause 4 (Consortium) herein.

This Attachment shall be submitted only in the event the bid is submitted by a Consortium.

2.22 Technical Proposal

- a) The bidder shall submit as part of its bid the technical information requested in Attachment No. 17 (Technical Proposal) to the Form of Tender in the format indicated in Sections 1.0 – 20.0 therein and shall include the following. The Technical Proposal shall be submitted in five (5) copies.
 - i) The bidder shall submit as Exhibit 1 (Declaration for Verification and Acceptance of FEED) of Attachment No. 17 to Form of Tender, its confirmation of acceptance of Company provided FEED information as requested therein.
 - ii) The bidder shall submit as Exhibit 2 (Declaration for Verification and Acceptance of Supplementary Letter(s)) of Attachment No. 17 to Form of Tender its confirmation of acceptance of Company provided information via. entire Supplementary Letters.
- b) The bidder's attention is drawn to Section 15.0 (Technical Information) of the Attachment 17 to the Form of Tender, by which the bidder is requested to supply, with sufficient details, technical data relating to critical equipment and the suppliers' preliminary technical proposals, indicating delivery periods after placing purchase orders.
- c) The manufacturers of products and the Subcontractors for categories of works shall be selected from the lists in Appendix G (KOC List of Approved Manufacturers), Appendix H (KOC List of Approved Contractors for Categories of Work and Selected List of CTC Approved Civil and Roads & Sanitary Works Contractors), and Appendix I (Ministry of Commerce & Industry – Kuwait Industrial Guide), except as otherwise specified in the Tender documents. For any products and categories of work not listed, the bidder shall make its own proposal. Company reserves the right to reject any subcontractor or supplier at Company's discretion.
- d) The information provided in the bidder's Technical Proposal will allow the Company to assess the bidder's capabilities to meet the project's technical requirements.

3.0 ADDITIONAL INSTRUCTIONS

- 3.1 The bidder may attend the pre-bid meeting and the Site visit referred to in the letter of Invitation to Bid. It is anticipated that the duration of the pre-bid meeting will be one (1) day and another one (1) day for the Site visit.
- 3.2 The bidder as instructed in the Invitation to bid letter shall notify its intention to attend that meeting to the Team Leader Contracts (I), Kuwait Oil Company (K.S.C.).

- 3.3 The bidder shall notify the Company of its intention to attend fifteen (15) days prior to the pre-bid meeting and shall include in such notification the number and names of bidder's personnel who will attend the Site visit. Upon entering the Country, the bidder shall provide clear copies of their passports and visas showing the entry stamp in order that the Company may make the necessary arrangements for access permits and transportation. The bidder shall note that Company requires a minimum of three (3) working days to arrange such access permits and is advised to make necessary arrangements accordingly. The bidder shall also submit a declaration on its letterhead in accordance with the specimen attached in Appendix No. 5 hereto, together with its notification for Site Visit. The attendees are restricted to no more than four (4) persons per bidder..
- 3.4 The bidder shall provide and arrange for its representatives to wear safety helmets, boiler suits, safety boots, safety glasses and other protective clothing as may be required to attend the Site visit. Personnel not wearing the said Personal Protective Equipment (PPE) will not be admitted.
- 3.5 Other than at the pre-bid meeting, no employee of the Company shall be approached to discuss the bid with the bidder in any way. If, following the pre-bid meeting and the issue of any relevant supplementary letter, the bidder has further queries, these shall be directed in writing to the CTC and copied by e-mail to contact@kockw.com, copied to rdamodaran@kockw.com, vvnair@kockw.com and hand carried hard copy for reply no later than ten (10) days from the date of the pre-bid meeting, and such replies, or information provided to one bidder, shall be forwarded to all bidders. All bidder's queries shall be submitted in the format shown in Appendix 3 (Bidders Query Form) hereto along with an electronic file of the same. An electronic file of the form has been included in the bid documents.
- 3.6 The bidder is advised that the process of replying to queries normally takes a minimum of two (2) weeks and it is, therefore, essential that the bidder endeavours to raise all questions concerning the bid at the pre-bid meeting. In order to coordinate the pre-bid meeting more efficiently, the bidder is requested to submit in writing to the Company, prior to the date thereof, details of the questions it may wish to raise at that meeting. The bidder is advised that only written questions, including those hand-drafted at said pre-bid meeting and Site visit, shall receive a formal response and be regarded as a clarification of the Company's requirements for the bid.

The Company contact person responsible for dealing with queries from bidders will document and record all such queries, noting the time, the date and issue discussed. The bidder should ensure that the receipt of each supplementary document issued in the tender period is acknowledged in writing and a statement of confirmation is included in their Tender in accordance with Clause 14.0 of Attachment No. 17 to Form of Tender (Declaration For Verification and Acceptance of Supplementary Letter(s)) confirming that allowance has been made in its bid in relation to the requirements of each supplementary document issued.

- 3.7 The Tender Documents and any and all subsequent related correspondence are strictly confidential and shall neither be copied nor used for any purpose other than the preparation of the bid.
- 3.8 Should the bidder be unsuccessful, or the Tender be cancelled, the Tender Documents and all subsequent documents issued to the bidder shall be returned to the Company, addressed to the Team Leader Contracts (I).
- 3.9 In the event that bidder is successful and is non-Kuwaiti, bidder must appoint a Kuwaiti agent in Kuwait in respect of the Contract and must provide evidence of the appointment as and when the Company directs, in the manner required by the Contract.
- 3.10 The bidder is deemed to have knowledge of and must comply with Law No. 25/1996 relating to declaration of commissions in connection with State Contracts.
- 3.11 The successful bidder shall notify the Ministry of Finance & Economy regarding its Subcontractors as required by Ministerial Order No. 44/1985.
- 3.12 The bidder shall take into consideration the resulting cost savings (if any) as a result of Company procuring insurance coverage as stated in Clause 43.2 (Insurance to be Maintained by Company) of General Conditions of Contract.
- 3.13 The bidder, by its submission of a bid, shall be deemed to have particularly acquainted itself with the provisions of the following, and shall comply therewith accordingly:
- a) Kuwait Labour Law No. 06/2010 concerning its employment obligations;
 - b) Ministerial Order No. 104/94 issued by Ministry of Social Affairs and Labour concerning overtime work by employees in Private Sector; and
 - c) Ministerial Order 189/210 as amended by Ministerial Order 212/2011 concerning working hours in open places.
- 3.14 The bidder acknowledges that copyright in all documents comprising the Contract, and all other documentation of which the Company is the author and which is issued as part of this Tender, vests in the Company and, except where reasonably necessary due to execution of the Works, compliance with the Contract or contract administration, shall not be reproduced, transmitted or stored in any form or by any means without the Company's prior written permission.
- 3.15 Bids will only be accepted from bidders invited to participate in the tender. Any bid submitted by a bidder whose name does not exactly match that on the bidders list will be rejected. The bidders must verify the correctness and the accuracy of the name that appears on the bidders list and must promptly bring to the attention of CTC, in writing, any discrepancy in the name and copy such correspondence to the Company.

- 3.16 The bidder must ensure that the Bid Bond and the Tender Fee submitted to CTC bear the exact name of the bidder.

4.0 CONSORTIUM (A NON-INCORPORATED ASSOCIATION OF COMPANIES /PARTNERS)

The bidders have the option to submit bids either as a single entity or as a lawfully formulated Consortium.

- 4.1 The following shall apply with respect to the Consortium:

The bid shall be signed by both members of the Consortium.

The members shall provide a Consortium agreement in Attachment No.16 that includes:

- a) a definition of the roles and responsibilities and percentage input in monetary terms of each member of the Consortium;
- b) a statement that the members of the Consortium shall enter into a Contract and undertake, jointly and severally, the obligations of the Consortium under the Contract in accordance with Clause 42.5 of the General Conditions of Contract;
- c) a confirmation that the members of the Consortium appoint and authorize the lead member ("Consortium Lead Member") as a sole nominee to bind the Consortium and to act on its behalf in all matters in connection with or arising out of the Contract;
- d) details of the roles, inputs and responsibilities of the members as well as the administration and financing of the Consortium in accordance with Clause 42.5 of the General Conditions of Contract;
- e) a statement that the members of the Consortium shall, upon the award of the Contract, appoint a single individual to act as the Project Manager under the Contract and that such person shall have authority to act on behalf of the Consortium and each member;
- f) a statement that the split of roles and responsibilities and of the scope of Work (Work allocation) between the Consortium members, as defined in Attachment 16 to the Form of Tender, shall not be altered without prior written consent by the Company;
- g) a statement that, for the purpose of the implementation of the Contract, the Consortium shall act as and be considered a single entity and in particular shall have a joint bank account in its name, submit joint financial securities / guarantees, joint invoices, and joint reports, and that payment into such bank account shall satisfy the Company's payment obligations to any and all members of the Consortium;
- h) a statement that the Consortium members are not participating in more than one bid for the Works under this tender process, and their acknowledgement that failure to comply with this mandatory requirement shall cause their bid to be disqualified.

- i) a statement that, in the event of default by one of the members of the Consortium in the form of insolvency, bankruptcy, receivership or liquidation, then the remaining member of the Consortium shall assume responsibility for the obligations and liabilities of the defaulting member. Notwithstanding the foregoing and pursuant to clause 11.13 of the Particular Conditions of Contract and 51.2.1 of the General Conditions of Contract, the insolvency, bankruptcy, receivership or liquidation of the Consortium Lead Member is deemed a Contractor's default; in which case pursuant to clause 51.3.1 the Company shall have the right to terminate any part or all of the remaining Works due to the Contractor's default.
 - j) A statement that the Consortium shall operate from one office during the Engineering and Procurement phase of the Project. Notwithstanding the foregoing, and subject to clause 11.1 of the Particular Conditions of Contract, if the bidder has reasons to believe that there are benefits to perform the engineering and procurement Works from separate offices, which belong to the Contractor, it can propose this arrangement with adequate substantiation, allow for provision of office facilities for Company representatives at both offices as per the requirements of Appendix E Clause 2.1.1, and propose the number of those facilities at each office and the corresponding duration of their supply.
 - k) A statement that all Procurement and Subcontracting shall be done in the name of the Consortium, save where otherwise approved in writing by the Company in its sole and absolute discretion.
 - l) A statement that the members of the Consortium shall implement and use only a common, uniform, consistent and homogenous project management system and software applications in the performance of the Works and for carrying out such functions as, but not limited to, preparation of various engineering deliverables, requests for quotations, technical bid evaluations, project schedules, minutes of meetings, reporting systems, archiving systems, automation and the like and the Consortium further undertakes, and to that effect that the Company shall not be subjected to any disadvantage of having different project management systems and software applications being implemented and used by members of the Consortium in performance of the Works.
- 4.2 The number of Consortium members shall be limited to two (2) only inclusive of the Consortium Lead Member.
- 4.3 The conditions of Consortium are as follows:
- a) The invited bidder shall be the "Consortium Lead Member".
 - b) The Consortium Lead Member shall choose the other member (the Consortium Member) from the list included in Appendix 4 to the Instructions to the Bidder.

- c) The Consortium members are not permitted to participate in more than one bid. Failure to comply with this requirement shall cause disqualification of the bid.
- 4.4 The Contract shall be signed by all members of the Consortium so as to be legally binding on each member and the members of the Consortium shall be jointly referred to as the Contractor. Once the contract is awarded, the Consortium may not amend its Consortium Agreement without the prior written consent of the Company;
- 4.5 In addition to the requirements stated under Clause 4.1 a) hereof, the bidder shall provide a detailed listing in Attachment 16 to Form of Tender of how the elements of the Works including their corresponding value will be allocated to each member of the Consortium for the Company's evaluation and acceptance during the bid evaluation. The allocation of the Works between the members of the Consortium shall be such that the value of the Works allocated to the "Consortium Member" does not exceed 30% of the total Contract Price excluding the Provisional Sums. Once approved, the allocation of the Works shall not be changed without the written approval of the Company. Company at its sole discretion has the right to either accept or reject the proposed scope split allocation between the Consortium members. This provision shall not limit the joint and several liability of any of the Consortium members for the performance of the Works.
- 4.6 The Consortium agreement shall be consistent with all the bidder's responsibilities and obligations under the Tender without exception.
- 4.7 The provisions of Clause 8.1 (Insurance) of the Particular Conditions of Contract shall apply to each of the parties to the Consortium.
- 4.8 The Consortium entities are required to adhere to the conditions set forth in Clause 42.5 (Joint and Several Liability) of the General Conditions of Contract. Any communication/correspondence with the CTC and/or the Company during bidding stage shall be by the Consortium Lead Member and shall be binding on both parties forming part of the Consortium.
- 4.9 Without prejudice to the Company's rights under Clause 4.4 and Clause 4.5 hereof, where the Consortium intends to amend, supplement or replace any documentation submitted on behalf of the Consortium, or otherwise entered into between its members (including, but without limitation by entering into any new or amended agreement between the parties comprising the Consortium, regulating its composition, management or operation before or after award of the Contract), a copy of any such proposed amended, supplemented or replacement documentation shall forthwith be provided to the Company for its approval.
- 4.10 Where a member of the Consortium is a subsidiary company, such member shall submit an undertaking from its parent company acceptable to the Company that it shall Guarantee the Company in respect of the obligations of such member under any Contract if awarded.