

NATIONAL CEMENT S.C. BIDDING DOCUMENTS

For the

SUPPLY AND DELIVERY OF TYERS and TUBES 12:00 R20

(4000Pcs)

Contents

Section I: Invitation to Bid (ITB).....	3
Section II: Instruction to Bidders	4
Section III: General Conditions of Contract.....	14
Section IV: Schedule of Requirements	24
Section V: Technical Specifications	25

Section I: Invitation to Bid (ITB)
FOR PROCUREMENT OF TYERS 12R20 (4,000 PCS)

Tender. No. NCSC-0003/19

1. **National Cement Share Company (NCSC)** intends to procure, through open competitive tendering, 4,000 Pcs heavy truck 12 R 20 Tyres, for the fiscal budget year 2019/20.
2. Bidding will be conducted through open competitive bidding procedure using a non-discretionary “pass/fail criterion (for pre-evaluation qualification) and through technical and Financial evaluation (for selection of Lowest Evaluated Bidder).
3. Bidding is open to eligible bidders (Private of Public Limited, Share Companies and Joint Ventures) of both Ethiopian and foreign companies.
4. A complete set of bidding documents may be acquired by interested bidders during the bid floating period, from our website www.nationalcementsc.com/bids;
5. Interested bidders may obtain further information via the following addresses;
alemayehu.negussie@nationalcementsc.com and/or tetemke.gebremedin@nationalcementsc.com ,
Cellphone - +251 935 985 083/ +251 935 404 571
6. Bids must be duly received by NCSC at the following address:

foreign.purchase@nationalcementsc.com

or

National Cement Share Company

Ethio-China Friendship Road Wello sefer, KT-12

Building 1st floor

Tel: +251 11 4 42 19 28/ +251 25 2 11 00 70

Cell: +251 935 985 083/+251 935 404 571

Addis Ababa, Ethiopia

on or before January 13/2020 at 10:00am.

7. Bid opening shall be on January 17, 2020 10:30 a.m. at NCSC’s office of the supply chain Department, Dire Dawa, Ethiopia. Bids will be opened in the presence of the bidders’ representatives who choose to attend the opening. Late bids shall not be accepted.
8. NCSC reserves the right to reject any or all bids, declare a failure of bidding, or not award the contract at any time prior to contract award, without thereby incurring any liability to the affected bidder or bidders.

Section II: Instruction to Bidders

A. General

1. Scope of Bid

- 1.1. NCSC invites bids for the supply and delivery of the Goods as described in Section V, Technical Specifications.
- 1.2. The name, identification, and number of lots specific to this bidding are as provided in this document.

2. Eligible Bidders

- 2.1. All companies (national or international) who fulfill legal requirements of the country and financially and organizational requirements of this bid shall be eligible to participate in the bid;
- 2.2. The Bidder must have completed at least one similar Project
- 2.3. Bidders shall include in their bids a photocopy of Single Largest Completed Contract or Purchase Order and the corresponding proof of completion, such as (i) Certificate of Final Acceptance from the Bidder's client; or (ii) Official Receipt issued by the Bidder.
- 2.4. The bidder must have the financial capacity at least equal to the offered contract price and to this end the bidder must submit latest externally audited Financial Statement prior to signing of contract agreement;

3. Bidder's Responsibilities

3.1 The Bidder is responsible for the following:

- (a) To carefully examine all of the Bidding Documents;
- (b) To acknowledge all conditions affecting the implementation of the contract;
- (c) To make an estimate of the facilities available and needed for the contract to be bid, if any;
- (d) To actively seek information pertaining to the bid through inquiry and/or follow up of any amendments provided by the buyer.
- (e) To ensure that it is not "blacklisted" or barred by the Government of Ethiopia or any of its agencies, offices,
- (f) To ensure that each of the documents submitted in satisfaction of the bidding requirements is an authentic copy of the original, complete, and all statements and information provided therein are true and correct;
- (g) To ensure that the signatory is the duly authorized representative of the Bidder, and granted full power and authority to do, execute and perform any and all acts necessary;
- (h) To ensure that it did not give or pay, directly or indirectly, any commission, amount, fee, or any form of consideration, pecuniary or otherwise, to any person or official, personnel or representative of NCSC;

Failure to observe any of the above responsibilities shall be at the risk of the Bidder concerned.

- 3.2. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document.
- 3.3. It shall be the sole responsibility of the Bidder to determine and to satisfy itself by such means as it

considers necessary or desirable as to all matters pertaining to the contract to be bid, including: (a) the location and the nature of the buyer; (b) climatic conditions; (c) transportation facilities; and (d) other factors that may affect the cost, duration, and execution or implementation of this bid.

3.4. NCSC shall not assume any responsibility regarding erroneous interpretations or conclusions by the prospective or eligible bidder; However, NCSC shall ensure that all information in the Bidding Documents, including bid/supplemental bid bulletin/s issued, are correct and consistent.

3.5. Before submitting their bids, the Bidder is deemed to have become familiar with all existing laws, decrees, ordinances, acts and regulations of Ethiopia which may affect this procurement in any way.

3.6. The Bidder shall bear all costs associated with the preparation and submission of this bid, and NCSC will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

4. Origin of Goods

There is no restriction on the origin of goods other than those prohibited by a decision of the government of Ethiopia;

B. Contents of Bidding Documents

5. Bid Document Amendment

In case where NCSC finds it necessary to amend any provision of the bidding document, it shall be issued in writing at least seven (7) calendar days before the deadline for the submission and receipt of bids.

6. Clarification and Amendment of Bidding Documents

6.1. Prospective bidders may request for clarification on and/or interpretation of any part of the Bidding Documents. Such request must be in writing and submitted at the address indicated below at least ten (10) calendar days before the deadline set for the submission and receipt of Bids:

alemayehu.negussie@nationalcementsc.com and/or tetemke.gebremedin@nationalcementsc.com

6.2. NCSC shall respond to the said request by issuing a Supplemental/Bid Bulletin, to be made available to all those who have properly secured the Bidding Documents, at least seven (7) calendar days before the deadline for the submission and receipt of Bids.

6.3. Supplemental/Bid Bulletins may also be issued upon NCSC's initiative for purposes of clarifying or modifying any provision of the Bidding Documents not later than seven (7) calendar days before the deadline for the submission and receipt of Bids. Any modification to the Bidding Documents shall be identified as an amendment.

6.4. Any Supplemental/Bid Bulletin issued by the NCSC shall also be posted in the company website specified for bid submission; it shall be the responsibility of all Bidders who have properly secured the Bidding Documents to inquire and secure Supplemental/Bid Bulletins that may be issued by NCSC. To this end, Bidders who have submitted bids before the issuance of the Supplemental/Bid Bulletin shall be allowed to modify or withdraw their bids.

C. Preparation of Bids

7. Language of Bids

The eligibility requirements or statements, the bids, and all other documents to be submitted must be in English. If the eligibility requirements or statements, the bids, and all other documents submitted is/are in foreign language other than English, it must be accompanied by a translation of the documents in English. The English translation shall govern, for purposes of interpretation of the bid.

8. Documents Comprising the Bid: Eligibility and Technical Components

8.1. The first envelope shall contain the following eligibility and technical documents:

Class “A” Documents

(a) Eligibility Documents –

- (i) Business License Certificate, Tax payer’s registration Certificate, VAT registration Certificate,
- (ii) Statement of all its ongoing government and private contracts, including contracts awarded but not yet started; and
- (iii) Statement of Proof for Single Largest Completed Contract (SLCC) of at least one similar supply and delivery.

The two statements required shall indicate for each contract the following:

- (iii.1) name of the contract;
- (iii.2) date of the contract;
- (iii.3) contract duration;
- (iii.4) owner’s name and address;
- (iii.5) kinds of Goods;
- (iii.6) For Statement of Ongoing Contracts - amount of contract and value of outstanding contracts;
- (iii.7) For Statement of Successfully accomplished contracts - amount of completed contracts,
- (iii.8) date of delivery; and
- (iii.9) end user’s acceptance or official receipt(s) or sales invoice issued for the contract, if completed, which shall be attached to the statements

Class “B” Document:

- (iv). If applicable, the Joint Venture Agreement (JVA) in case the joint venture is already in existence, or duly notarized statements from all the potential joint venture partners

(b) Technical Documents –

- (i). Bid security which shall be in the form of bank draft/guarantee or an irrevocable letter of credit in an amount of 2% of offered price of the bidder. The bid security shall be valid until

90 calendar days from the date of bid opening;

(ii) Conformity with technical specifications,

9. Documents Comprising the Bid: Financial Component

(a) Financial document, which includes bid prices and the applicable Price Schedules.

(b) Any other document related to the financial component of the bid.

(c) Technical document

Financial and technical documents shall be prepared separately.

10. Alternative Bids

10.1. Alternative Bids shall be rejected. For this purpose, alternative bid is an offer made by a Bidder in addition or as a substitute to its original bid which may be included as part of its original bid or submitted separately therewith for purposes of bidding. A bid with options is considered an alternative bid regardless of whether said bid proposal is contained in a single envelope or submitted in two (2) or more separate bid envelopes.

10.2. Each Bidder shall submit only one Bid, either individually or as a partner in a Joint Venture. A Bidder who submits or participates in more than one bid will cause all the proposals with the Bidder's participation to be disqualified. This shall be without prejudice to any applicable criminal, civil and administrative penalties that may be imposed upon the persons and entities concerned.

11. Bid Prices

11.1. The Bidder shall complete the appropriate Schedule of Prices included herein, stating the unit prices, total price per item, the total amount and the expected countries of origin of the Goods to be supplied;

11.2. Prices indicated on the Price Schedule shall be quoted at FOB by stating port of loading, CFR at Djibouti or **Delivered Duty Paid** price – Addis Ababa or Dire Dawa, Ethiopia.

11.3. Prices indicated on the Price Schedule shall be entered separately in the following manner:

(a) For Goods offered from within Ethiopia:

(i) The price of the Goods quoted shall be the DDP;

(ii) The cost of all customs duties and sales and other taxes already paid;

(iii) The cost of transportation, insurance, and other costs incidental to delivery of the Goods to their final destination; and

(iv) The price of other (incidental) services, if any.

(b) For Goods offered from abroad:

(i) The price of the Goods shall be quoted DDP with the place of destination in Ethiopia, FOB with specified port of loading or CFR at Djibouti. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible country. Similarly, the Bidder may obtain insurance services from any eligible source country.

(ii) The price of other (incidental) services, if any.

Note: For evaluation purposes, the total price of the goods shall be quoted DDP at Addis Ababa or Dire Dawa, Ethiopia.

12. Bid Currency

Prices shall be quoted in the following currencies:

- (a) For Goods that the Bidder will supply from within Ethiopia, the prices shall be quoted in Birr.
- (b) For Goods that the Bidder will supply from outside of Ethiopia, the prices may be quoted in the currency (ices) USD or Euro. However, for purposes of bid evaluation, bids denominated in foreign currencies shall be converted to Birr based on the exchange rate as published on the day of the bid opening.

Therefore, payment of the contract price shall be made in Birr or USD or Euro.

13. Bid Validity

Bids shall remain valid for the period of ninety (90) calendar days from the date of the opening of bids.

14. Bid Security

- 14.1. Bid security which shall be in the form of bank draft/guarantee or irrevocable letter of credit in an amount of 2% of offered price of the bidder. The bid security shall be valid until 90 calendar days from the date of bid opening;
- 14.2. No bid securities shall be returned to Bidders after the opening of bids and before contract signing, except to those that failed or declared as post disqualified.
- 14.3. Partial bid is not allowed

15. Signing of Bids

- 15.1. Bidders shall submit their bids through their duly authorized representative. Two (2) separate sealed bid envelopes shall be submitted simultaneously. The first shall contain the technical component of the bid, including the eligibility requirements and the second shall contain the financial component of the bid.
- 15.2. The Bidder shall prepare and submit an original of the first and second envelopes.
- 15.3. Each and every page of the Bid shall be signed by the duly authorized representative/s of the Bidder. Failure to do so shall be a ground for the rejection of the bid.
- 15.4. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the duly authorized representative/s of the Bidder.

16. Sealing and Marking of Bids

- 16.1. Bidders shall enclose their original eligibility and technical documents in one sealed envelope marked "ORIGINAL - TECHNICAL COMPONENT", and the original of their financial component

in another sealed envelope marked “ORIGINAL - FINANCIAL COMPONENT”, sealing them all in an outer envelope marked “ORIGINAL BID”.

16.2. The Bid shall be typed or written in ink and shall be signed by the Bidder or its duly authorized representative/s.

16.3 All envelopes shall:

- (a) Contain the name of the contract to be bid in capital letters;
- (b) Bear the name and address of the Bidder in capital letters;
- (c) Be addressed to NCSC’s address:

foreign.purchase@nationalcementsc.com

or

National Cement Share Company
Ethio-China Friendship Road Wello sefer, KT-12
Building 1st floor
Tel: +251 11 4 42 19 28/ +251 25 2 11 00 70
Cell: +251 935 985 083/+251 935 404 571
Addis Ababa, Ethiopia

- (d) Bear the specific identification of this bidding process as:

Tender. No. NCSC-0003/19

- (e) Bear a warning “DO NOT OPEN BEFORE...” the date and time for the opening of bids.

16.4. Bid envelopes that are not properly sealed and marked, as required in the bidding documents, shall not be rejected, but the Bidder or its duly authorized representative shall acknowledge such condition of the bid as submitted. The Procuring Entity shall assume no responsibility for the misplacement of the contents of the improperly sealed or marked bid, or for its premature opening.

D. Submission and Opening of Bids

17. Deadline for Submission of Bids

Bids must be submitted at the address and on or before on or before January 13/2020 at 10:00am

18. Late Bids

Any bid submitted after the deadline for submission and receipt of bids prescribed shall be declared “Late” and shall not be accepted. The Tender Committee shall record in the minutes of bid submission and opening, the Bidder’s name, its representative and the time the late bid was submitted.

19. Modification and Withdrawal of Bids

19.1. The Bidder may modify its bid after it has been submitted; provided that the modification is received prior to the deadline prescribed for submission and receipt of bids. The Bidder shall not be allowed to retrieve its original bid, but shall be allowed to submit another bid equally sealed and properly identified linked to its original bid marked as “TECHNICAL MODIFICATION” or “FINANCIAL MODIFICATION” and stamped “received”. Bid Modifications received after the applicable deadline shall not be considered and shall be returned to the Bidder unopened.

- 19.2 A Bidder may, through a Letter of Withdrawal, withdraw its bid after it has been submitted, for valid and justifiable reason; provided that the Letter of Withdrawal is received prior to the deadline prescribed for submission and receipt of bids. The Letter of Withdrawal must be executed by the duly authorized representative of the Bidder.
- 19.3. Bids requested to be withdrawn shall be returned unopened to the Bidders. A Bidder, who has acquired the bidding documents, may also express its intention not to participate in the bidding through a letter which should reach and be stamped by the procuring entity before the deadline for submission and receipt of bids. A Bidder that withdraws its bid shall not be permitted to submit another bid, directly or indirectly, for the same contract.
- 19.4. No bid may be modified after the deadline for submission of bids. No bid may be withdrawn in the interval between the deadline for submission of bids and the expiration of the period of bid validity.

20. Opening and Preliminary Examination of Bids

- 20.1. Bids shall be opened in public, immediately after the deadline for the submission and receipt of bids. In case the Bids cannot be opened as scheduled due to justifiable reasons, the committee shall take custody of the Bids submitted and reschedule the opening of Bids on the next working day or at the soonest possible time through the issuance of a Notice of Postponement to be posted in the official website of NCSC.
- 20.2. The tender committee shall open the first bid envelope and determine each Bidder's compliance with the documents using a non-discretionary "pass/fail" criterion. If a Bidder submits the required document, it shall be rated "passed" for that particular requirement. In this regard, bids that fail to include any requirement or are incomplete shall be considered as "failed".
- 20.3. After determining compliance with the requirements in the first envelope, the tender committee shall forthwith open the second bid envelope of each remaining eligible bidder whose first bid envelope was rated "passed". The second envelope of each complying bidder shall be opened within the same day. In case one or more of the requirements in the second envelope of a particular bid is missing, incomplete or insufficient, the Committee shall rate the bid concerned as "failed". Only bids that are determined to contain all the bid requirements for both components shall be rated "passed" and shall immediately be considered for evaluation and comparison.
- 20.4. Letters of Withdrawal shall be read out and recorded during bid opening, and the envelope containing the corresponding withdrawn bid shall be returned to the Bidder unopened.
- 20.5. All members of the tender Committee, who are present during bid opening, shall initial every page of the original copies of all bids received and opened.
- 20.6. The Tender Committee shall prepare the minutes of the proceedings of the bid opening that shall include, as a minimum: (a) names of Bidders, their bid price (per lot, if applicable, and/or including discount, if any), bid security, findings of preliminary examination, and whether there is

a withdrawal or modification; and (b) attendance sheet. The committee members shall sign the abstract of bids as read.

20.7 The bidders or their duly authorized representatives may attend the opening of bids. The committee shall ensure the integrity, security, and confidentiality of all submitted bids.

20.8 To ensure transparency and accurate representation of the bid submission, the Committee Secretariat shall notify in writing all bidders whose bids it has received through its NCSC's-registered physical address or official e-mail address. The notice shall be issued within seven (7) calendar days from the date of the bid opening.

E. Evaluation and Comparison of Bids

21. Process to be Confidential

21.1. Members of the tender committee, including its staff and personnel, as well as its Secretariat, are prohibited from making or accepting any kind of communication with any bidder regarding the evaluation of their bids until the issuance of the **Notice of Award**.

21.2. Any effort by a bidder to influence the Procuring Entity in the Procuring Entity's decision in respect of bid evaluation, bid comparison or contract award will result in the rejection of the Bidder's bid.

22. Clarification of Bids

To assist in the evaluation, comparison, and post-qualification of the bids, NCSC (National Cement share Company) may ask in writing any Bidder for a clarification of its bid. All responses to requests for clarification shall be in writing. Any clarification submitted by a Bidder in respect to its bid and that is not in response to a request by the NCSC shall not be considered.

23. Detailed Evaluation and Comparison of Bids

23.1. NCSC will undertake the detailed evaluation and comparison of bids which have passed the opening and preliminary examination of bids in order to determine the Lowest Calculated Bid.

23.2. The Lowest Calculated Bid shall be determined in two steps:

(a) The detailed evaluation of the financial component of the bids, to establish the correct calculated prices of the bids; and

(b) The ranking of the total bid prices as so calculated from the lowest to the highest. The bid with the lowest price shall be identified as the Lowest Calculated Bid.

23.3. The tender evaluation committee shall immediately conduct a detailed evaluation of all bids rated "passed," using non-discretionary pass/fail criteria.

23.4. Based on the detailed pre-evaluation of bids, those that comply with the requirements shall be considered for evaluation.

23.5. Evaluation of bids shall be based on the bid price quoted in the Bid, which includes the Schedule of Prices.

23.6. Bids shall be evaluated on an equal footing to ensure fair competition. For this purpose, all bidders

shall be required to include in their bids the cost of all taxes, such as, but not limited to, value added tax (VAT), income tax, local taxes, and other fiscal levies and duties which shall be itemized in the bid form and reflected in the detailed estimates. Such bids, including said taxes, shall be the basis for bid evaluation and comparison.

24. Post-Qualification

- 24.1. NCSC shall determine to its satisfaction whether the Bidder that is evaluated as having submitted the Lowest Calculated Bid complies with and is responsive to all the requirements and conditions.
- 24.2. Within a non-extendible period of five (5) calendar days from receipt by the bidder of the notice from the procurement Entity that it submitted the Lowest Calculated Bid, the Bidder shall submit audited financial statements of 2017/18 FY. Failure to submit any of the post-qualification requirements on time, or a finding against the veracity thereof, shall disqualify the bidder for award.
- 24.3. If the Committee determines that the Bidder with the Lowest Calculated Bid passes all the criteria for post-qualification, it shall declare the said bid as the LCB, and the award of contract to the said Bidder, is offered, at its submitted price.
- 24.3. Within a period not exceeding seven (7) calendar days from the determination by the committee of the LCB and the recommendation to award the contract, the CEO or his duly authorized representative shall approve the said recommendation.

25. Reservation Clause

- 25.1. Notwithstanding the eligibility or post-qualification of a Bidder, NCSC reserves the right to review its qualifications at any stage of the procurement process if it has reasonable grounds to believe that a misrepresentation has been made by the said Bidder, or that there has been a change in the Bidder's capability to undertake the delivery from the time it submitted its eligibility requirements.
- 25.2. Based on the following grounds, NCSC reserves the right to reject any and all bids, declare a Failure of Bidding at any time prior to the contract award, or not to award the contract, without thereby incurring any liability, and make no assurance that a contract shall be entered into as a result of the bidding:
 - (a) If there is evidence of collusion between bidder and employees of NCSC, or between the Committee and any of the Bidders, or if the collusion is between or among the bidders themselves, or between a Bidder and a third party, including any act which restricts, suppresses or nullifies competition;
 - (b) If the tender committee is found to have failed in following the prescribed bidding procedures;
or
 - (c) For any justifiable and reasonable ground where the award of the contract will not redound to the benefit of NCSC as follows:
 - (i) If the physical and economic conditions have significantly changed so as to render the procurement no longer economically, financially or technically feasible as determined by

the CEO;

(ii) If the procurement is no longer necessary as determined by the CEO; and

(iii) If the source of funds for the project has been withheld or reduced through no fault of the NCSC.

25.3. In addition, NCSC may likewise declare a failure of bidding when:

(a) No bids are received;

(b) All prospective Bidders are declared ineligible;

(c) All bids fail to comply with all the bid requirements or fail post qualification; or

(d) The bidder with the LCB refuses, without justifiable cause to accept the award of contract, and no award is made

F. Award of Contract

26. Contract Award

26.1. The CEO or its duly authorized representative shall award the contract to the Bidder whose bid has been determined to be the LCB.

26.2. Prior to the expiration of the period of bid validity, NCSC shall notify the successful Bidder in writing that its bid has been accepted, through a Notice of Award duly received by the Bidder or its representative personally or sent by registered mail or electronically, receipt of which must be confirmed in writing within two (2) days by the Bidder with the LCRB and submitted personally or sent by registered mail or electronically to NCSC;.

26.3. Notwithstanding the issuance of the Notice of Award, award of contract shall be subject to the following conditions:

(a) Submission of the following documents within ten (10) calendar days from receipt of the Notice of Award:

(i) Valid Joint Venture Agreement, if applicable; or

(b) Posting of the performance security which is 10% of the total invoice value;

(c) Signing of the contract; and

26.4. At the time of contract award, NCSC shall not increase or decrease the quantity of goods originally specified which is 4000 12R20 Ty,res.

27. Signing of the Contract

27.1. At the same time as NCSC notifies the successful Bidder that its bid has been accepted, it shall also send the Contract Form to the Bidder, which contract has been provided in the Bidding Documents, incorporating therein all agreements between the parties.

27.2. Within five (05) calendar days from receipt of the Notice of Award, the successful Bidder shall post the required performance security, sign and date the contract and return it to NCSC.

27.3. The Procuring Entity shall enter into contract with the successful Bidder within ten (10) calendar day period provided that all the documentary requirements are complied with.

27.4. The following documents shall form part of the contract:

- (a) Contract Agreement;
- (b) Bidding Documents;
- (c) Winning bidder's bid, including the Technical and Financial Proposals, and all other documents/statements submitted (e.g., bidder's response to request for clarifications on the bid), including corrections to the bid, if any, resulting from the Procuring Entity's bid evaluation;
- (d) Performance Security;
- (e) Notice of Award of Contract; and
- (f) Other contract documents that may be required by existing laws.

28. Performance Security

28.1. To guarantee the faithful performance by the winning Bidder of its obligations under the contract, it shall post a performance security within a maximum period of five (05) calendar days from the receipt of the Notice of Award from NCSC and in no case later than the signing of the contract.

28.2. The Performance Security shall be denominated in Birr and posted in favor of the Procuring Entity in an amount equal to 10% of the total contract price.

28.3. Failure of the successful Bidder to comply with the above-mentioned requirement shall constitute sufficient ground for the annulment of the award and forfeiture of the bid security, in which event NCSC shall have a fresh period to initiate and complete the post qualification of the second Lowest Calculated Bid. The procedure shall be repeated until the LCB is identified and selected for recommendation of contract award. However if no Bidder passed post-qualification, NCSC shall declare the bidding a failure and conduct a re-bidding with re-advertisement, if necessary.

29. Notice to Proceed

Within seven (7) calendar days from the date of approval of the contract, the Procuring Entity shall issue the Notice to Proceed (NTP) together with a copy or copies of the approved contract to the successful Bidder. All notices called for by the terms of the contract shall be effective only at the time of receipt thereof by the successful Bidder.

Section III: General Conditions of Contract

1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Procuring Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means 12R20 Tyers with inner tube and general support services which the Supplier is

required to provide to the Procuring Entity under the Contract.

- (d) “The Services” means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as inspection, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) “The Procuring Entity” means the organization purchasing the Goods, National Cement Share Company.
- (f) “The Procuring Entity’s country” is Ethiopia.
- (g) “The Supplier” means the individual contractor, manufacturer distributor, or firm supplying/manufacturing the Goods and Services under this Contract (to be inserted at the time of contract award).
- (h) “Day” means calendar day.
- (i) The “Effective Date” of the contract will be the date of signing the contract; however the Supplier shall commence performance of its obligations only upon receipt of the Notice to Proceed and copy of the approved contract.
- (j) “Verified Report” refers to the report submitted by the Implementing Unit to the NCSC setting forth its findings as to the existence of grounds or causes for termination and explicitly stating its recommendation for the issuance of a Notice to Terminate.

2. Corrupt, Fraudulent, Collusive, and Coercive Practices

The Procuring Entity as well as the bidders, contractors, or suppliers shall observe the highest standard of ethics during the procurement and execution of this Contract. In pursuance of this policy, the Procuring Entity:

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) **"corrupt practice"** means behavior on the part of officials in the public or private sectors by which they improperly and unlawfully enrich themselves, others, or induce others to do so, by misusing the position in which they are placed, and it includes the offering, giving, receiving, or soliciting of anything of value to influence the action of any such official in the procurement process or in contract execution; entering, on behalf of the Government, into any contract or transaction manifestly and grossly disadvantageous to the same, whether or not the public officer profited or will profit thereby,
 - (ii) **"fraudulent practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Procuring Entity, and includes collusive practices among Bidders (prior to or after bid submission) designed to establish bid prices at artificial, noncompetitive levels and to deprive the Procuring Entity of the benefits of free and open competition.
 - (iii) **“Collusive practices”** means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Procuring Entity, designed to establish bid prices at artificial, non-

competitive levels.

(iv) **“coercive practices”** means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract;

(v) **“Obstructive practice”** is:

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to an administrative proceedings or investigation or making false statements to investigators in order to materially impede an

administrative proceedings or investigation of the Procuring Entity or any foreign government/foreign or international financing institution into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the administrative proceedings or investigation or from pursuing such proceedings or investigation; or

(bb) acts intended to materially impede the exercise of the inspection and audit rights of the Procuring Entity or any foreign government/foreign or international financing institution herein.

(b) Will reject a proposal for award if it determines that the Bidder recommended for award has engaged in any of the practices mentioned in this Clause for purposes of competing for the contract.

3. Inspection

The Supplier shall permit the procuring Entity to Inspect and certify performance conformance prior to receipt of Goods;

4. Governing Law and Language

4.1. This Contract shall be interpreted in accordance with the laws of Ethiopia.

4.2. This Contract has been executed in the English language, which shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract. All correspondence and other documents pertaining to this Contract exchanged by the parties shall be written in English.

5. Notices

Any notice, request, or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request, or consent shall be deemed to have been given or made when received by the concerned party, either in person or through an authorized representative of the Party to whom the communication is addressed, or when sent by registered mail, telex, telegram, or facsimile to such Party at the address specified in this document, which shall be effective when delivered and duly received or on the notice’s effective date, whichever is later.

6. Procuring Entity’s Responsibilities

6.1. Whenever the performance of the obligations in this Contract requires that the Supplier obtain permits, approvals, import, and other licenses from local Public authorities, the Procuring Entity shall,

if so needed by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

6.2. The Procuring Entity shall pay all costs involved in the performance of its responsibilities.

7. Prices

7.1. For the given scope of work in this Contract as awarded, all bid prices are considered fixed prices, and therefore not subject to price escalation during contract implementation, except under extraordinary circumstances.

7.2. Prices charged by the Supplier for Goods delivered and/or services performed under this Contract shall not vary from the prices quoted by the Supplier in its bid.

8. Payment

8.1. Payments shall be made only upon a certification by the CEO of NCSC to the effect that the Goods have been rendered or delivered in accordance with the terms of this Contract and have been duly inspected and accepted. No payment shall be made for services not yet rendered or for supplies and materials not yet delivered under this Contract. Ten percent (10%) of the amount of each payment shall be retained by the Procuring Entity to cover the Supplier's warranty obligations under this Contract.

8.2. The Supplier's request(s) for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and/or Services performed, and by documents submitted and upon fulfillment of other obligations stipulated in this Contract. Payments shall be made promptly by the Procuring Entity

8.3. The currency in which payment is made to the Supplier under this Contract shall be in **Birr or USD or Euro**.

9. Advance Payment and Terms of Payment

9.1. Advance payment shall be made only after prior approval by the CEO of NCSC and shall not exceed thirty percent (30%) of the Contract amount, unless otherwise directed by the CEO;

9.2. The terms of payment shall be as follows:

(a) On Contract Signature: Thirty Percent (30%) of the Contract Price shall be paid within fifteen (15) days from signing of the Contract and upon submission of a bank guarantee for the equivalent amount valid until the Goods are delivered.

(b) On Delivery: Sixty percent (60%) of the Contract Price shall be paid to the Supplier within sixty (60) days after the date of receipt of the Goods and upon submission of the documents.

(c) On Acceptance: The remaining ten percent (10%) of the Contract Price shall be paid to the Supplier within thirty (30) days after the date of submission of the acceptance and inspection certificate for the respective delivery issued by the Procuring Entity. In the event that no inspection or acceptance certificate is issued by the Procuring Entity's within forty five (45) days of the date shown on the delivery receipt, the Supplier shall have the right to claim payment of the remaining ten percent (10%) subject to the Procuring Entity's own verification

of the reason(s) for the failure to issue documents.

10. Taxes and Duties

The Supplier, whether local or foreign, shall be entirely responsible for all the necessary taxes, stamp duties, license fees, and other such levies imposed for the completion of this Contract.

11. Performance Security

11.1. Within five (5) calendar days from receipt of the Notice of Award from the Procuring Entity but in no case later than the signing of the contract by both parties.

11.2. The performance security posted in favor of the Procuring Entity shall be forfeited in the event it is established that the winning bidder is in default in any of its obligations under the contract.

11.3. The performance security shall remain valid until issuance by the Procuring Entity of the Certificate of Final Acceptance.

11.4. The performance security may be released by the Procuring Entity and returned to the Supplier after the issuance of the Certificate of Final Acceptance subject to the following condition:

(a) There are no pending claims against the Supplier or the surety company filed by the Procuring Entity;

11.5. In case of a reduction of the contract value, the Procuring Entity shall allow a proportional reduction in the original performance security, provided that any such reduction is more than ten percent (10%) of the original performance security.

12. Standards

The Goods provided under this Contract shall conform to the standards mentioned in the Technical Specifications; and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the institution concerned.

13. Inspection and Tests

13.1. The Procuring Entity or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Procuring Entity. Technical Specifications shall specify what inspections and/or tests the Procuring Entity requires and where they are to be conducted. The Procuring Entity shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

13.2. If applicable, the inspections and tests may be conducted on the premises of the Supplier at point of delivery, and/or at the goods' final destination. If conducted on the premises of the Supplier, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity. The Supplier shall provide the Procuring Entity with results of such inspections and tests.

13.3. The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in this Clause provided that the Procuring Entity shall bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.

- 13.4. The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice.
- 13.5. The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, shall release the Supplier from any warranties or other obligations under this Contract.

14. Warranty

- 14.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials, except when the technical specifications required by the Procuring Entity provides otherwise.
- 14.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship or from any act or omission of the Supplier that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 14.3. In order to assure that manufacturing defects shall be corrected by the Supplier, a warranty period shall be mentioned and stated. The obligation for the warranty shall be covered, in a special bank guarantee equivalent to at least one percent (1%) of the total Contract Price .The said amounts shall only be released after the lapse of the warranty period specified, however, that the Supplies delivered are free from patent and latent defects and all the conditions imposed under this Contract have been fully met.
- 14.4. The Procuring Entity shall promptly notify the Supplier in writing of any claims arising under this warranty. Upon receipt of such notice, the Supplier shall, within the period specify and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Procuring Entity.
- 14.5. If the Supplier, having been notified, fails to remedy the defect(s) within the period specified, the Procuring Entity may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Procuring Entity may have against the Supplier under the Contract and under the applicable law.

15. Delays in the Supplier's Performance

- 15.1. Delivery of the Goods and/or performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Procuring Entity.
- 15.2. If at any time during the performance of this Contract, the Supplier should encounter conditions impeding timely delivery of the Goods and/or performance of Services, the Supplier shall promptly notify the Procuring Entity in writing of the fact of the delay, its likely duration and its

cause(s). As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of Contract.

15.3. A delay by the Supplier in the performance of its obligations shall render the Supplier liable to the imposition of liquidated damages, unless an extension of time is agreed without the application of liquidated damages.

16. Liquidated Damages

If the Supplier fails to satisfactorily deliver any or all of the Goods and/or to perform the Services within the period(s) specified in this Contract inclusive of duly granted time extensions if any, the Procuring Entity shall, without prejudice to its other remedies under this Contract and under the applicable law, deduct from the Contract Price, as liquidated damages, the applicable rate of one percent of the cost of the unperformed portion for every day of delay until actual delivery or performance. The maximum deduction shall be ten percent (10%) of the amount of contract. Once the maximum is reached, the Procuring Entity may rescind or terminate the Contract without prejudice to other courses of action and remedies open to it.

17. Settlement of Disputes

17.1. If any dispute or difference of any kind whatsoever shall arise between the Procuring Entity and the Supplier in connection with or arising out of this Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

17.2. If after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Procuring Entity or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

17.3. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under this Contract. Place of provisions and Arbitration shall be in Diredawa and the Ethiopian arbitration provision respectively;

17.4. In the case of a dispute between the Procuring Entity and the Supplier, the dispute shall be resolved in accordance with relevant provisions of the law of Ethiopia;

17.5. Notwithstanding any reference to arbitration herein, the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and the Procuring Entity shall pay the Supplier any monies due the Supplier.

18. Liability of the Supplier

18.1. The Supplier's liability under this Contract shall be as provided by the laws of Ethiopia, subject to additional provisions, if any.

18.2. Except in cases of criminal negligence or willful misconduct, and in the case of infringement of patent rights, if applicable, the aggregate liability of the Supplier to the Procuring Entity shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing

or replacing defective equipment.

19. Force Majeure

- 19.1. The Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that the Supplier's delay in performance or other failure to perform its obligations under the Contract is the result of a force majeure.
- 19.2. For purposes of this Contract the terms "force majeure" and "fortuitous event" may be used interchangeably. In this regard, a fortuitous event or force majeure shall be interpreted to mean an event which the Supplier could not have foreseen, or which though foreseen, was inevitable. It shall not include ordinary unfavorable weather conditions; and any other cause the effects of which could have been avoided with the exercise of reasonable diligence by the Supplier. Such events may include, but not limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 19.3. If a force majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure.

20. Termination for Default

- 20.1. The Procuring Entity shall terminate this Contract for default when any of the following conditions attends its implementation:
 - (a) Outside of force majeure, the Supplier fails to deliver or perform any or all of the Goods within the period(s) specified in the contract, or within any extension thereof granted by the Procuring Entity pursuant to a request made by the Supplier prior to the delay, and such failure amounts to at least ten percent (10%) of the contract price;
 - (b) As a result of force majeure, the Supplier is unable to deliver or perform any or all of the Goods, amounting to at least ten percent (10%) of the contract price, for a period of not less than sixty (60) calendar days after receipt of the notice from the Procuring Entity stating that the circumstance of force majeure is deemed to have ceased; or
 - (c) The Supplier fails to perform any other obligation under the Contract.
- 20.2. In the event the Procuring Entity terminates this Contract in whole or in part, the Procuring Entity may procure Goods or Services similar to those undelivered, and the Supplier shall be liable to the Procuring Entity for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of this Contract to the extent not terminated.
- 20.3. In case the delay in the delivery of the Goods and/or performance of the Services exceeds a time duration equivalent to ten percent (10%) of the specified contract time plus any time extension duly granted to the Supplier, the Procuring Entity may terminate this Contract, forfeit the Supplier's performance security and award the same to a qualified Supplier.

21. Termination for Insolvency

The Procuring Entity shall terminate this Contract if the Supplier is declared bankrupt or insolvent as determined with finality by a court of competent jurisdiction. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Procuring Entity and/or the Supplier.

22. Termination for Convenience

22.1. The Procuring Entity may terminate this Contract, in whole or in part, at any time for its convenience. NCSC may terminate a contract for the convenience of the company if it has determined the existence of conditions that make Project Implementation economically, financially or technically impractical and/or unnecessary, such as, but not limited to, fortuitous event(s) or changes in law and national government policies.

22.2. The Goods that have been delivered and/or performed or are ready for delivery or performance within thirty (30) calendar days after the Supplier's receipt of Notice to Terminate shall be accepted by the Procuring Entity at the contract terms and prices. For Goods not yet performed and/or ready for delivery, the Procuring Entity may elect:

- (a) to have any portion delivered and/or performed and paid at the contract terms and prices; and/or
- (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed and/or performed goods and for materials and parts previously procured by the Supplier.

23. Termination for Unlawful Acts

23.1. The Procuring Entity may terminate this Contract in case it is determined that the Supplier has engaged, before or during the implementation of this Contract, in unlawful deeds and behaviors relative to contract acquisition and implementation. Unlawful acts include, but are not limited to, the following:

- (a) Corrupt, fraudulent, and coercive practices;
- (b) Drawing up or using forged documents;
- (c) Using adulterated materials, means or methods, or engaging in production contrary to rules of science or the trade; and
- (d) Any other act analogous to the foregoing.

24. Procedures for Termination of Contracts

24.1. The following provisions shall govern the procedures for termination of this Contract:

- (a) Upon receipt of a written report of acts or causes which may constitute ground(s) for termination as aforementioned, or upon its own initiative, the Implementing Unit shall, within a period of seven (7) calendar days, verify the existence of such ground(s) and cause the execution of a Verified Report, with all relevant evidence attached;
- (b) Upon recommendation by the Implementing Unit, the NCSC shall terminate this Contract only by a written notice to the Supplier conveying the termination of this Contract. The notice shall state:

- (i) That this Contract is being terminated for any of the ground(s) afore-mentioned, and a statement of the acts that constitute the ground(s) constituting the same;
 - (ii) The extent of termination, whether in whole or in part;
 - (iii) An instruction to the Supplier to show cause as to why this Contract should not be terminated; and
 - (iv) Special instructions of the Procuring Entity, if any.
- (c) The Notice to Terminate shall be accompanied by a copy of the Verified Report;
- (d) Within a period of seven (7) calendar days from receipt of the Notice of Termination, the Supplier shall submit to NCSC a verified position paper stating why this Contract should not be terminated. If the Supplier fails to show cause after the lapse of the seven (7) day period, either by inaction or by default, NCSC shall issue an order terminating this Contract;
- (e) The Procuring Entity may, at any time before receipt of the Supplier's verified position paper described in item (d) above withdraw the Notice to Terminate if it is determined that certain items or works subject of the notice had been completed, delivered, or performed before the Supplier's receipt of the notice;
- (f) Within a non-extendible period of ten (10) calendar days from receipt of the verified position paper, NCSC shall decide whether or not to terminate this Contract. It shall serve a written notice to the Supplier of its decision and, unless otherwise provided, this Contract is deemed terminated from receipt of the Supplier of the notice of decision. The termination shall only be based on the ground(s) stated in the Notice to Terminate;
- (g) The NCSC may create a Contract Termination Review Committee (CTRC) to assist him in the discharge of this function. All decisions recommended by the CTRC shall be subject to the approval of the NCSC; and
- (h) The Supplier must serve a written notice to the Procuring Entity of its intention to terminate the contract at least thirty (30) calendar days before its intended termination. The Contract is deemed terminated if it is not resumed in thirty (30) calendar days after the receipt of such notice by the Procuring Entity.

25. Assignment of Rights

The Supplier shall not assign his rights or obligations under this Contract, in whole or in part, except with the Procuring Entity's prior written consent.

26. Contract Amendment

Subject to applicable laws, no variation in or modification of the terms of this Contract shall be made except by written amendment signed by the parties.

27. Application

These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of this Contract.

Section IV: Schedule of Requirements

The delivery schedule expressed as weeks/months stipulates hereafter a delivery date which is the date of delivery to the procuring entity.

S.No.	Description of Goods	UoM	Currency	Quantity	<i>FOB Basis</i>		<i>C&F Basis</i>		DDP Basis (AA or Dire Dawa)		Origin	Port of Loading
					U/P	T/P	U/P	T/P	U/P	T/P		

Delivery _____

Warranty _____

Serial number and Logo of National Cement Share Company shall be printed on the tyre.

Note: If your price is on CFR basis, kindly mention freight charge separately.

I hereby certify to comply and deliver all the above requirements.

Name of Company/Bidder

Signature over Printed Name of
Authorized Representative

Date

Section V: Technical Specifications

S.No	Technical Specification	Remark
FRONT WHEEL TYRES and TUBES 12:00 R20		
1	Size	12.00 R20
2	Service Description	156/153
3	Ply Rate	20
4	Rim Size	8.0 - 20
5	Required Quantity	1,000 Pcs
<i>Note: Serial number and Logo of National Cement Share Company shall be printed on the tyre.</i>		
REAR WHEEL TYRES and TUBES 12:00 R20		
6	Size	12.00 R20
7	Service Description	154/151
8	Ply Rate	18
9	Rim Size	8.0 - 20
10	Required Quantity	3,000 Pcs
<i>Note: Serial number and Logo of National Cement Share Company shall be printed on the tyre.</i>		

I hereby certify to comply with all the above Technical Specifications.

Name of Company/Bidder

Signature over Printed Name of Representative

Date Authorized