

# **Invitation to Bid**

**(No.: ITB20-KCN-05-01)**

**Consulting service to establish education program  
in the framework of implementing  
the State Atomic Energy Corporation Rosatom programs**

**September, 2020**



**KEPCO ENGINEERING & CONSTRUCTION COMPANY, INC.**

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## **CHAPTER I**

### **GENERAL INFORMATION**

#### **A. GENERAL INFORMATION OF THE SERVICES**

## **A. GENERAL INFORMATION OF THE SERVICES**

### **- Brief of the Contract**

Contractor shall submit the report to KEPCO Engineering & Construction Company, Inc. for the consulting service to establish the education program in the framework of implementing the State Atomic Energy Corporation Rosatom programs. Contractor shall provide the requirements and process for participant of competitive bidding in Rosatom business.

## **CHAPTER II**

### **INSTRUCTION TO BIDDER**

**A. GENERAL INSTRUCTIONS**

**B. SUBMISSION OF BID DOCUMENTS**

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**I. OWNERSHIP OF BID AND COMPENSATION**

**J. MODIFICATION, REJECTION AND WITHDRAWAL OF BID**

**K. QUALIFICATION REQUIREMENT**

**L. COMPOSITION OF BID DOCUMENTS and BID EVALUATION**

**M. OTHERS**

## **A. GENERAL INSTRUCTIONS**

Bidders are requested to prepare and submit a technical proposal and a financial proposal (collectively, the “Bid Documents”) in accordance to all the requirements specified in this Invitation to Bid (ITB). ITB includes all chapters and appendixes indicated in the table of contents of this ITB.

## **B. SUBMISSION OF BID DOCUMENTS**

1. Bidders shall submit Bid Documents to the following address **by e-mail**:

Attn. 1 : Mr. Lee Weonjoo  
General Manager  
Subcontract & Procurement Team  
Contract Management Department  
KEPCO Engineering & Construction Co., Inc.  
E-mail: [leewj@kepco-enc.com](mailto:leewj@kepco-enc.com)

Attn. 2 : Mr. Lee Seunghyun  
Subcontract & Procurement Team  
Contract Management Department  
KEPCO Engineering & Construction Co., Inc.  
E-mail: [sh.lee@kepco-enc.com](mailto:sh.lee@kepco-enc.com)

2. Documentations to be Submitted

### **(a) Commercial Proposal**

- Price Bid Form (A. PRICE BID FORM in CHAPTER III - INFORMATION for COMMERCIAL PROPOSAL) shall be completed and submitted.
- Deviation request, if any, using Deviation Request Form (B. DEVIATION REQUEST FORM in CHAPTER III - INFORMATION for COMMERCIAL PROPOSAL) and marked-up General Terms & Conditions (GTC) of appendix A. Deviation requests shall include explanations why the Bidder requests those deviations. Request(s) marked-up in GTC and written in Deviation Request Form both shall only be considered as the Bidder's deviation request.
- Any comments and/or proposals in connection with this Bid.

### **(b) Technical Proposal**

- Technical Proposal (Bidder's forms shall be used)

Technical Proposal and Commercial Proposal shall be submitted in separated files and named accordingly. Two separated files using Zip files for each can be an option.

**C. DEADLINE FOR SUBMISSION AND VALIDITY OF BID DOCUMENTS**

Bidder(s) submit its Bid Documents no later than **09:00 a.m. Korean Standard Time on September 30, 2020** and the Bid Documents shall remain firm valid for a period of **six (6) months** from the date of this deadline. Once submitted, proposals shall not be withdrawn until the validity of the Bid Documents.

**D. LATE SUBMISSION**

Bid Documents received after the deadline for submission of the Bid pursuant to Section C above may be rejected.

**E. CLARIFICATION**

Should the any Bidder find discrepancies or should any doubt or question exist as to the true meaning or intent of any portion of the contents of this ITB, the Bidder may make a written request to KEPCO Engineering & Construction Co., Inc. (hereinafter called "KEPCO E&C"). However, the clarification shall be submitted no later than seven (7) days prior to deadline for submission of this Bid.

The request for clarification and the response shall be given in writing via e-mail.

Clarification inquiries and answers may be disclosed to all Bidders who intend to participate the Bid.

Bidder's questionnaire must be submitted to the following address:

Attn. : Mr. Lee Seunghyun

E-mail: [sh.lee@kepc0-enc.com](mailto:sh.lee@kepc0-enc.com)

**F. BID CURRENCIES**

The Bidder shall submit its Bid Documents with amounts in **U.S. Dollars (\$)**.

**G. LANGUAGE OF BID**

The Bid Documents prepared by Bidder(s) and all correspondences and documents relating to the Bid exchanged between the Bidder and KEPCO E&C shall be written in English.

**H. CONFIDENTIAL NATURE OF DOCUMENTS**

The contents of this ITB shall only be used for the preparation of the Bid.

**I. OWNERSHIP OF BID AND COMPENSATION**

Bid Documents once submitted to KEPCO E&C shall not be returned to the Bidder regardless of whether it is accepted or rejected. The Bidder shall bear all costs associated with the preparation and submission of the Bid Documents, and in no case will KEPCO E&C be responsible or liable for those costs, regardless of the conduct or outcome of the Bid process.

**J. MODIFICATION, REJECTION AND WITHDRAWAL OF BID**

KEPCO E&C reserves the right to reject without any liability to the Bidder(s) any part of, or all Bids, to modify or withdraw this ITB at any time, and to enlarge or reduce the scope of Services to be included in the ITB.

**K. QUALIFICATION REQUIREMENT**

Only the Bidder(s) which meet all requirements described below shall be qualified for this Bid.

Bidder which has experience related to consulting service to establish education program in the framework of implementing the State Atomic Energy Corporation Rosatom programs

**L. COMPOSITION OF BID DOCUMENTS and BID EVALUATION**

Any procedure, method and decision to be taken by KEPCO E&C with regard to the evaluation shall be decisive and any claim by the Bidder will not be accepted.

During the evaluation of Bid, KEPCO E&C may ask Bidder(s) for clarification of its Bid Documents.

The Bidder(s) shall prepare and submit its Bid Documents to KEPCO E&C by two different files separating for Part I. Commercial Proposal and Part II. Technical Proposal as follows:

**Part I. Commercial Proposal (30%)**

Terms and conditions attached as Appendixes in this ITB will be the basic terms and conditions to be finalized through contract negotiation. Unless the Bidder(s) clearly states its deviation request and/or exceptions to the terms and conditions in its Commercial Proposal, the Bid Documents shall be construed as an offered in compliance with the terms and conditions as described in the ITB including Appendixes.

Bidder(s) shall submit its Commercial Proposals using forms indicated in Chapter III [Information for Commercial Proposal]



1. Bid price made in accordance with Price Bid Form in Chapter III.
  - The lowest bid price will receive the maximum score
2. Exceptions and/or deviations to GTC of Appendix A, using Deviation Request Form and GTC.
  - The Bidder with no exceptions and/or deviations against terms and conditions will receive the maximum score
  - Bidder(s) requesting any exceptions and/or deviations shall clearly fill the Deviation Request Form and markup on the GTC.

Commercial evaluation shall be made based on 80% bid price and 20% deviation request

## **Part II. Technical Proposal (70%)**

The factors to be considered in selecting the first eligible Bidder include, without limitation, the following. Therefore, each bidder shall prepare its proposal to include below information:

1. Bidder's qualification, experience, and capabilities for the task listed on the ITB
  - Bidder's experiences of the similar project to establish education program in the framework of implementing the State Atomic Energy Corporation Rosatom programs
  - Description on the practical work experience related with the work scope
2. Project Action Plan
  - Understanding on requirements of work scope in the technical specification.
  - Consistency with technical service and consultant objectives
  - Adequacy of the project manpower and suitability of the proposed man hour
  - Completeness and effectiveness of work plan and performance method of the Services
3. Manpower
  - Project organization and qualification of the key personnel which the Bidder would propose for each task
  - Knowledge on regulations, requirements, systems, and design.
  - Similar project experience of designated personnel
4. Organization
  - Project organization and qualification of the key personnel which the Bidder would propose for each task
  - Available alternative manpower

For Bidder's information, please see below table which will be used for technical evaluation of this bid.

- Evaluation Table(Technical)

No	Evaluation Factors	Contents	Score	Details and score
1	Experience with similar projects	Performed in the last 10 years	30	- Similarity of contents (10) - Performed similar consulting service (20)*
2	Project Action Plan	Project Schedule and Appropriateness of Management	30	- Understanding of Purpose and Method of Consulting Service (25) - Appropriateness of Planned Schedule (5)
3	Manpower	Similar Work Experience	30	- Consulting service of Education program or Similar Work Experience of Manpower (15) - Appropriateness of Manpower Plan (15)
4	Organization	Status of Technical Manpower and Organization	10	- Organization of Purpose and Method of Consulting Service (5) - Available Alternative Manpower (5)
Total			100	

\* Over 5 performances: 20 / 2~4 performances : 18 / less than 2 performances : 16

Only of the Bidders with technical score of 85% or more shall be considered to be qualified bidder for negotiation.

\*Bidder which do not meet qualification requirement for bid (company or institute which has experience related to consulting service to establish education program in the framework of implementing the State Atomic Energy Corporation Rosatom programs) shall be disqualified.

#### **M. OTHERS**

1. KEPCO E&C will not authorize the expenses related to Bidder's visit to Korea for the discussion of this ITB or contract negotiation.
2. The purpose of this ITB is only to select preferred bidder. Accordingly, KEPCO E&C is not obligated to accept the terms and conditions of the Bid Documents. In the event KEPCO E&C and the preferred Bidder fail to reach an agreement on the contract, KEPCO E&C shall have the right to select and negotiate with another Bidder without any liability or compensation to the selected Bidder. KEPCO E&C also reserves the right to reject any and all proposal received by reason of this ITB and to negotiate separately with any source whatsoever, in any manner deemed necessary, to serve the best interest of KEPCO E&C.
3. KEPCO E&C will not conclude a Contract with any bidder if the bidder will not accept the performance guarantee requirements described in CHAPTER III – INFORMATION for COMMERCIAL PROPOSAL.

## **CHAPTER III**

### **INFORMATION for COMMERCIAL PROPOSAL**

- A. PRICE BID FORM**
- B. DEVIATION REQUEST FORM**
- C. PERFORMANCE GUARANTEE REQUIRMENTS**

**A. PRICE BID FORM**

Total cost (including engineering works and travel expenses) for the Contract shall not exceed the budget (US\$ 15,000).

Task	Man-hours(MH)	Amount per MH (USD)	Total Amount (USD)
Task 1 Needs Analysis			
Task 2 Education Program according to Standards of Rosatom			
Total Contract Price			

**B. DEVIATION REQUEST FORM**

Article #	DESCRIPTION	JUSTIFICATION

## C. PERFORMANCE GUARANTEE REQUIREMENTS

Contractor shall furnish KEPCO E&C with a Performance Guarantee which shall be of Bank Guarantee or Standby Letters of Credit (LC). Guarantee shall be either issued, confirmed or counter guaranteed by KEB Hana Bank KEPCO E&C(S) branch.

All costs, expenses and charges levied by all banks party to the Performance Guarantee including confirmation charges shall be prepaid/borne by the Contractor. The Performance Guarantee shall contain all requirements of payment to KEPCO E&C.

Requirements of the Performance Guarantee:

- Designated bank information:
  - KEB Hana Bank (KEPCO E&C(S) Branch)
  - Swift Code: KOEXKRSE or KOEXKRSEXXX
  - Bank Address: 269, Hyeoksin-Ro, Gimcheon-Si, Gyeongbuk-Do, 39660, Republic of Korea
  - Tel.: +82-54-437-9405
- Application Rules: UCP Latest Version
- Guarantee period: Guarantee period described in the Contract
- Guarantee Amount: 10% of the Contract Price
- Beneficiary: KEPCO Engineering & Construction Co., Inc.  
269, Hyeoksin-Ro, Gimcheon-Si, Gyeongbuk-Do, 39660, Republic of Korea
- The Performance Guarantee shall be denominated in the currency used in the Contract.
- It shall be the responsibility of the Contractor to ensure that its Performance Guarantee is valid at all times during the period of contract validity and further is in the full amount as contracted.
- The performance guarantee shall be held against payment to KEPCO E&C for any loss resulting from the Contractor's failure to perform its contractual obligations fully and properly without any reference to the Contractor.
- The performance guarantee shall be irrevocable shall be provided in as a first-demand guarantee.

## **CHAPTER IV**

### **INFORMATION for TECHNICAL PROPOSAL**

- A. SCOPE OF THE SERVICES**
- B. METHOD OF PERFORMANCE**

## A. SCOPE OF THE SERVICES

Contractor shall prepare reports for KEPCO Engineering & Construction Company, Inc. in regards to the following tasks:

### Task 1: Needs Analysis

1. Rosatom's requirement: e.g. GOST, Standard, Computer Programs
2. Bidding and Contract Phase
3. Contract Implementation Phase
  - 1) Design and Engineering
  - 2) Procurement
  - 3) Construction
  - 4) Commissioning
4. Recommendation to do business with Rosatom: e.g. Branch Office, Representative Office

### Task 2: Education Program according to requirements of Rosatom

Education Programs of each phase shall be designed to be divided into for beginner and advanced courses.

1. Bidding and Contract Phase
2. Design and Engineering Phase
3. Procurement Phase
4. Construction Phase
5. Commissioning Phase

## B. METHODS OF PERFORMANCE

### Consulting Schedule

The consulting schedule for the basic tasks (Task 1, 2) shall be 12 weeks from the Execution Date of the Contract, as follow:

Date of the Contract, as Renew:

Activities	Schedule(Week)												remark
	+1	+2	+3	+4	+5	+6	+8	9	+10	+11	+12		
Task 1, 2 Preliminary Report													
Task 1, 2 Final Report													

### Method of Performance

- Contractor shall start the consulting service in accordance with the schedule shown as the above schedule, immediately after signing of the Contract.
- Contractor shall provide Final Report by 12 weeks after signing of the Contract.
- Contractor shall keep confidential all the data and information from this Contract, and shall not

divulge them to any third parties.

#### Deliverables

- The Contractor shall deliver reports for each Task. Overall number of final reports shall be two (2). Each report should contain not less than 50 sheets A4. Font: Times New Roman. Font size: 12. Interval: 1.5.
- All reports contain general consulting information, extracts from Russian law, information from relevant web sites and existing best practice for each two tasks, excluding deep dive analysis and/or any confidential information.
- Preliminary Reports for each Tasks shall be submitted within 8 weeks after signing of the Contract. The delivery of Preliminary Report for each 2 Tasks could be earlier then 8 weeks after signing of the Contract.
- Final Report shall be submitted within 12 weeks after signing of the Contract. The delivery of Final Reports for each 2 Tasks could be earlier than 12 weeks after signing of the Contract.
- KEPCO E&C will review and approve the delivered Preliminary and Final Reports.



## **APPENDIX**

### **TERMS and CONDITIONS**

**A. GENERAL TERMS AND CONDITIONS**

**B. INTEGRITY PACT**

**C. PAYMENT TERMS**

## **A. GENERAL TERMS AND CONDITIONS**

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## PREAMBLE

This consulting services contract (the “Contract”) is made and entered into effective as of this \_\_\_\_ day of \_\_\_\_, 2020 (hereinafter called the “Execution Date”) by and between:

1. **KEPCO Engineering & Construction Co., Inc.** (“KEPCO E&C”), a company duly organized and existing under the laws of the Republic of Korea (“Korea”) and having its principal office of business at 269 Hyeoksin-ro, Gimcheon-si, Gyeongsangbuk-do, 39660, Korea; and
2. \_\_\_\_\_, a company duly organized and existing under the laws of \_\_\_\_\_ and having its principal office of business at \_\_\_\_\_ (the “Contractor”).

## WITNESSETH:

**WHEREAS**, KEPCO E&C desires the Contractor to provide KEPCO E&C with certain services for \_\_\_\_\_;

**WHEREAS**, the Contractor offers to provide KEPCO E&C with such Services and to abide by the terms and conditions of this Contract;

**WHEREAS**, the Contractor has represented himself that it is technically qualified and experienced in the type of work as defined hereinafter and that it is professionally and financially capable of providing the Services for KEPCO E&C;

**WHEREAS**, KEPCO E&C and the Contractor (hereinafter referred to, individually, a “Party” and collectively, the “Parties”) desire to document their agreement to cover the conditions under which the Services shall be provided; and

**WHEREAS**, the representatives of the Parties possess proper and sufficient authority to agree.

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements hereinafter set forth, the Parties agree as follows:

## **ARTICLE 1. [DEFINITIONS]**

- “Contract” means this agreement entered into between KEPCO E&C and the Contractor for the supply of the Services.
- “Contractor” means [REDACTED] and its successors and assignees entering into this Contract with KEPCO E&C for the supply of Services in accordance with this Contract.
- “day” means calendar day unless expressly indicated as a working day.
- “KEPCO E&C” means KEPCO Engineering & Construction Company, Inc., having its headquarters in Gyeongsangbuk-do, Korea and its legal representatives, successors and assignees.
- “Korea” means the Republic of Korea.
- “Services” means all services to be performed by the Contractor in accordance with the terms and conditions of this Contract.

## **ARTICLE 2. [SCOPE OF THE SERVICES]**

- 2.1 The Services to be performed by the Contractor under this Contract are described in Appendix A [Scope of Services and Method of Performance] attached hereto and made a part hereof.
- 2.2 Upon completion of all tasks in accordance with the schedule agreed between the Parties, the Contractor shall submit its work results including all deliverables to KEPCO E&C for its inspection and review. Upon acceptance in writing by KEPCO E&C of the work results, the Contractor shall be deemed to have completed the Services.

## **ARTICLE 3. [CONTRACT PRICE]**

- 3.1 The maximum total amount to be paid by KEPCO E&C under the Contract and corresponding to the total contract price (the “Contract Price”) shall be \$ \_\_\_\_\_ U.S. Dollars inclusive of labor cost and other direct costs. The Contractor agrees that any amount exceeding the above Contract Price shall not be paid by KEPCO E&C.
- 3.2 In case any increase or decrease in accordance with Article 7, "Revisions" or Article 13, "Termination" is required, such portion of increase or decrease shall be calculated based on the cost detail specified in Appendix B [CONTRACT PRICE & PAYMENT].

## **ARTICLE 4. [TERMS OF PAYMENT]**

- 4.1 The Contractor shall submit invoices to KEPCO E&C in accordance with the following payment schedule described in Appendix B [CONTRACT PRICE & PAYMENT].

- 4.2 KEPCO E&C shall pay the accepted amount to the Contractor within thirty (30) days after the receipt of the invoice by telegraphic transfer to the Contractor's bank account. For the avoidance of any doubt, no invoice shall be paid unless and until KEPCO E&C has received and accepted the result (including but not limited to deliverables such as technical consulting service report) of Services performed by the Contractor.

Should any adjustment be necessary as a result of questioned or disallowed items, such adjustment shall be added to or deducted from, as the case may be, any following invoice. If there remains a questioned item, KEPCO E&C reserves the right to withhold payment for the items in question.

- 4.3 Except for banking charges incurred by KEPCO E&C to pay Contractor in connection with Article 3 "Contract Price", all banking charges shall be for the Contractor's account.

#### **ARTICLE 5. [TAXES]**

Except as otherwise specifically provided in this Contract, the Contractor shall bear and pay the corporate tax, personal income tax, inhabitant tax and any other taxes assessed on the Contractor, if any, by all local, state or national government authorities outside of Korea in association with the Services, while those levied by government authorities of Korea shall be borne by KEPCO E&C.

#### **ARTICLE 6. [FORCE MAJEURE]**

No Party shall be in default or shall be liable for any loss or damage due to delay in, or prevention of the performance of its obligations under this Contract if such delay or prevention results from the causes beyond such Party's control ("Force Majeure"). Force Majeure shall include, but are not limited to, the following:

- (a) Acts of God such as storms, floods or earthquakes;
- (b) Civil disturbances such as riots, strikes, revolutions, rebellions or insurrections;
- (c) Accidents or disruptions such as fires or explosions;
- (d) Any acts, laws, decrees, priorities, orders or regulations of any governmental authorities (national or local) including embargoes, quarantines, prohibitions of trade (including delays or failure to act), and delays or failures to issue any necessary license, permit or export or import authorization; or
- (e) Hostilities, invasions, wars (declared or not), or nuclear incidents.

#### **ARTICLE 7. [REVISIONS]**

- 7.1 KEPCO E&C shall have the right to request and subsequently to order the Contractor from time to time during the performance of the Services to make any changes to the Services for the modification, addition or deletion of any part of the Services, provided that such changes fall within the general scope of the Services.

The Contractor shall promptly inform KEPCO E&C if the change result in changes to schedule and/or price and the Parties shall in good faith negotiate such schedule and/or price changes.

- 7.2 Notwithstanding Paragraph 7.1 above, any changes made necessary due to any default of the Contractor in the performance of its obligations under the Contract shall not be deemed to be the changes under Paragraph 7.1 above and such changes shall not result in any adjustment of the Contract Price.

#### **ARTICLE 8. [INDEMNITY]**

- 8.1 The Contractor shall indemnify, defend, and hold harmless KEPCO E&C and its successors and assigns, their directors, officers, agents and employees from and against any and all claims for loss or damages for bodily injury or death suffered by anyone whomsoever, or any property damage of third party, arising directly or indirectly or claimed to arise out of the Contractor's negligent conduct or negligent performance of the Services or resulting from the negligent performance by the Contractor's employees in the performance of the Services.
- 8.2 The Contractor, at its own expense, shall defend any suit or action brought against KEPCO E&C where the Contractor has agreed to indemnify and defend KEPCO E&C as provided in Paragraph 8.1 above, and shall pay all such judgments against each of them including reasonable attorney's fees and expenses arising and resulting therefrom. The Contractor shall keep KEPCO E&C fully informed of the progress of any such suits or actions, and shall agree to consult with KEPCO E&C at all reasonable times in regard to the progress of such suits or actions.

#### **ARTICLE 9. [WARRANTY AND LIABILITY]**

- 9.1 The Contractor warrants that it shall completely perform the Services for KEPCO E&C according to the provisions of this Contract, especially Appendix A [Scope of Services and Method of Performance].
- In the event the Contractor ceases the performance of the Services due to any other reasons than those permitted by provisions of the Contract, KEPCO E&C may claim damages arising out of or resulting from such nonfulfillment based on the provision of Paragraph 8.1. In such case, KEPCO E&C shall have right to reject the payment invoiced by the Contractor for the performance of the Services.
- 9.2 The Contractor warrants that it shall perform the Services for KEPCO E&C making commercially utmost use of its skill and experience in an efficient, economic and thorough manner within its areas of expertise, in accordance with sound and currently acceptable engineering and management standards, practices, procedures, applicable laws and regulations.

- 9.3 In the event any of the Contractor's Services do not conform to the standards set forth in Paragraphs 9.1 and 9.2 above, KEPCO E&C shall promptly notify the Contractor of any nonconformity. The Contractor shall, at its own expense, upon receipt of written notice from KEPCO E&C, perform any additional Services necessary to correct the nonconformity so that negligent errors or omissions therein are removed to the reasonable satisfaction of KEPCO E&C. Any claims by KEPCO E&C for re-performance of the Contractor's Services shall be made within one (1) year from completion of such Services.
- 9.4 The Contractor's aggregate limit of liability for the Services, arising from violation of its obligations under this Contract, shall not exceed the total Contract Price set forth in Article 3.
- 9.5 However, any limitation of liability in connection with this Contract shall not be applied to Contractor's liability due to Contractor's gross negligence or willful misconduct.

#### **ARTICLE 10. [PERFORMANCE GUARANTEE]**

As a security for satisfactory performance of its obligation under this Contract, the Contractor shall provide KEPCO E&C with an unconditional Letter of Performance Commitment signed by the Contractor in favor of KEPCO E&C, in the amount of ten percent (10%) of the Contract Price shown in the Article 3 from the Execution Date of this Contract until thirty (30) days after the end of Contractor's Services period described Article 17 [CONTRACT PERIOD].

#### **ARTICLE 11. [OWNERSHIP OF DATA AND PROPRIETARY INFORMATION]**

- 11.1 All the reports and technical documents developed for KEPCO E&C by the Contractor under this Contract shall become the property of KEPCO E&C.
- 11.2 The Contractor shall keep confidential all the data and information provided and designated by KEPCO E&C as confidential or proprietary and shall not divulge them to any third parties.

#### **ARTICLE 12. [SUSPENSION AND EXTENSION]**

- 12.1 KEPCO E&C shall have the right to suspend or extend the completion of the Services for any reason upon fifteen (15) days prior written notice to the Contractor.
- 12.2 The completion shall be suspended or extended by a period of time reflecting the effect of the suspension or extension.
- 12.3 The Contractor shall resume the suspended Services within the earliest reasonable date after receipt of KEPCO E&C's request to do so, but not later than thirty (30) days following receipt of such notice.

### **ARTICLE 13. [TERMINATION]**

- 13.1 KEPCO E&C may at any time terminate the Contract, with or without cause by giving the Contractor a fifteen (15) days' notice in writing ("Termination Notice"). Upon receipt of KEPCO E&C's Termination Notice, the Contractor shall either immediately or upon the date specified in the Termination Notice cease all further Services.
- 13.2 The Contractor shall be paid compensation for the Services performed up to the date of termination except in case the termination is made due to the Contractor's default.
- 13.3 In the event termination as described in Paragraph 13.1 above is made due to the Contractor's default or breach of obligations hereunder, the Contractor shall be liable to KEPCO E&C for all loss, damages and expenses as a result of such termination. In such case, KEPCO E&C shall have the right to reject payment to the Contractor.

### **ARTICLE 14. [ASSIGNMENT AND SUBCONTRACT]**

- 14.1 Neither this Contract nor the benefits or obligations under this Contract shall be sold, assigned or transferred by either Party to any third parties including subsidiary or affiliated companies without the prior written approval of the other Party, with such approval not to be unreasonably withheld by either. In the event the approval is given by either for assignment or transfer, such an approval shall not relieve either from any liability and/or responsibility under this Contract.
- 14.2 Any subcontract, modification or termination hereof relating to the performance of the Services by the Contractor shall not be made without the prior written approval of KEPCO E&C.

### **ARTICLE 15. [DISPUTES AND ARBITRATION]**

- 15.1 All disputes, controversies or differences which may arise between the Parties, out of or in relation to or in connection with this Contract, or for the breach thereof, if not settled by mutual agreement, shall, at the option of the initiating Party and upon written notice to the other Party, be finally settled by arbitration in Seoul, Korea in accordance with the International Arbitration Rules of the Korea Commercial Arbitration Board and under the laws of the Republic of Korea.
- 15.2 The award rendered by the arbitrator(s) shall be final and binding upon both the Parties concerned.

### **ARTICLE 16. [GOVERNING LAW]**

All discrepancies, controversies or differences, or the validity, construction and performance of the Contract shall be governed by and interpreted in accordance with the laws of the Republic of Korea, without regard to its conflict of laws principles.



#### **ARTICLE 17. [CONTRACT PERIOD]**

The period of the Contractor's Services shall be \_\_\_\_\_ from the Execution Date. However, notwithstanding the forgoing, the contract period shall be regarded as the period from the Execution Date of this Contract to the expiration date of all rights and responsibilities including the Contractor's warranty, liability, settlement of all tax obligations, and any other obligation under this Contract.

#### **ARTICLE 18. [LIQUIDATED DAMAGES FOR DELAY]**

In the event that, for reasons attributable to Contractor, the Services are delayed beyond the completion date specified in the Contract documents, the Contractor shall pay liquidated damages to KEPCO E&C, not as a penalty, in an amount of zero point one two five (0.125) percent of the amount of each delayed portion for each day of delay. The liquidated damages shall not exceed ten (10) percent of the total Contract Price.

KEPCO E&C is entitled to deduct such liquidated damages from any payment due to the Contractor.

#### **ARTICLE 19. [SEVERABILITY]**

In the event that any articles, provision, portion or application thereof is held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, portions or applications thereof shall not be affected thereby.

#### **ARTICLE 20. [NOTICE]**

All notices, communications and approvals required or permitted to be given hereunder shall be given in writing in English and shall be made to the address of the parties concerned in one of the following means ;

- Personal delivery to the designated representative of each of the parties ;
- by registered post ; or
- by telefax or email

the specific designation of the parties as set forth below ;

If to KEPCO E&C :

KEPCO Engineering & Construction Co., Inc.  
269, Hyeoksins-ro, Gimcheon-si,  
Gyeongsangbuk-do, 39660, the Republic of Korea

Attention: Mr. \_\_\_\_\_  
Tel: +82-54-421-\_\_\_\_\_  
E-mail: \_\_\_\_\_@kepco-enc.com

If to the Contractor :

\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Fax No.: \_\_\_\_\_

Either Party hereto may change its address by a notice given to the other Party in the manner set forth immediately above. Notice given as herein provided shall be considered to have been given upon receipt.

#### **ARTICLE 21. [INFRINGEMENT OF PATENTS]**

In the event any suit, claim, action or proceeding against KEPCO E&C or their designee arises from allegations that any proprietary rights arising from the Services provided by the Contractor under this Contract, including without limitation the computer programs, or any portion thereof constitute infringement of any patent, copyright, trade secret, Know-How, or any other proprietary right of any third party, the Contractor shall defend KEPCO E&C's or their designee's right, title and interest to the same against such suit, claim, action, or proceeding at the Contractor's expense and shall hold KEPCO E&C and their designee harmless from any damages or losses of any kind including without limitation legal fees. If as a result of such suit or proceeding, the proprietary rights or any part thereof is held to constitute an infringement and the use of said proprietary rights, or any part thereof, is enjoined, the Contractor promptly shall, at his option and expense, either procure for KEPCO E&C the right to continue using said proprietary rights, or the part thereof, or replace the same with non-infringing proprietary rights acceptable to KEPCO E&C.

#### **ARTICLE 22. [ACCEPTANCE OF THE SERVICES]**

- 22.1 The Contractor shall give KEPCO E&C written notice as soon as it has completed the Services. Within fifteen (15) calendar days after receipt of such notice, KEPCO E&C shall notify in writing whether to accept those Services or request Contractor for correction of any unfinished work or deficiencies.
- 22.2 If the Contractor performs or corrects the unfinished work or deficiencies and notifies KEPCO E&C that all such items of unfinished work or deficiencies have been corrected, KEPCO E&C shall give the Contractor the written notice of acceptance ("Acceptance of Services") within fifteen (15) calendar days thereafter.

22.3 If KEPCO E&C fails to give notice of acceptance in the manner and at the times provided above, the Services shall be deemed to have been accepted by KEPCO E&C for all purposes of this Contract. The Acceptance of Services by KEPCO E&C shall in no event be considered a release of the Contractor's responsibilities, within the warranty period specified in Article 9.

#### **ARTICLE 23. [RESPONSIBILITIES OF THE PARTIES]**

##### **23.1 KEPCO E&C's Responsibilities**

23.1.1 KEPCO E&C shall provide available, data, criteria and other necessary information to the Contractor in a reasonably expeditious manner for the Contractor to perform the Services.

##### **23.2 The Contractor's Responsibilities**

23.2.1 The Contractor shall obtain necessary customary local licenses, permits, authorizations, customs clearances and handling, and agreements required for the Contractor to do business in the jurisdiction in which the Services are performed. The costs related to this Paragraph shall be for the Contractor's account.

23.2.2 The Contractor, its employees and agents shall comply with all legal provisions, regulations and safety rules for work applying in the territories in which the Services are carried out.

#### **ARTICLE 24. [LANGUAGE AND UNITS]**

The text of this Contract, technical specification or documents shall be made in English. The metric system and units shall be used for all principal instruction, instrumentation and other operating parameters. However, the foot-pound system can also be used in addition for reference.

#### **ARTICLE 25. [TIME ZONE/TIME PERIOD]**

Any reference in this Contract to a specific time shall refer to Korea Standard Time (KST).

#### **ARTICLE 26. [ENTIRE AGREEMENT]**

This Contract constitutes the entire agreement and understanding between the Parties as to the subject matter of this Contract and merges and supersedes all previous discussions, agreements and understanding of any and every nature between them. This Contract shall not be amended except by written agreement of the Parties.

#### **ARTICLE 27. [CONTRACTUAL INTEGRITY]**

- 26.1 The Contractor shall not offer or grant any bribes or undue benefits, including money, other articles, or treats, either directly or indirectly to any officials concerned, in the process of bid, award of contract, execution or performance of contract.
- 26.2 The Contractor shall not engage in any unfair practices that unreasonably undermine fair competition in a bid, such as bid-rigging or collusion to render the award of contract to a particular participant.
- 26.3 In the event of violation of the above, KEPCO E&C shall be entitled to:
- 1) terminate any contract with the Contractor including this Contract; and/or
  - 2) prohibit the Contractor from participating in any bids invited by KEPCO E&C for the period of two (2) years, and the Contractor shall not raise any objections or file any civil or criminal claims against KEPCO E&C for any measures taken by KEPCO E&C.
- 26.4 The Contractor shall be deemed to have signed and accepted the Integrity Pact attached hereto by signing this Contract.

#### **ARTICLE 28. [EFFECTIVENESS]**

This Contract shall be entered into full force and effect upon the signing of this Contract by the parties hereto.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Contract to be executed in duplicate each of which is deemed an original, by their respective duly authorized representatives as of the date first above written in the Preamble.

**KEPCO Engineering & Construction Co., Inc.**

By: \_\_\_\_\_  
Name: Lee Weonjoo  
Title: General Manager

\_\_\_\_\_  
By: \_\_\_\_\_  
Name:  
Title:

## **B. INTEGRITY PACT**

### **Integrity Pact**

In connection with conducting any business transactions with KEPCO Engineering & Construction Co., Inc. (KEPCO E&C), the undersigned hereby covenants the following:

1. We shall not offer or grant any bribes or undue benefits, including money, other articles, or treats, either directly or indirectly to any officials concerned, in the process of bid, award of contract, execution or performance of contract.
2. We shall not engage in any unfair practices that unreasonably undermine fair competition in a bid, such as bid-rigging or collusion to render the award of contract to a particular participant.

We acknowledge that, in case of breach of the above covenants, any of our contract with KEPCO E&C may be terminated and we may not be allowed to participate in any bidding invited by KEPCO E&C.

We will fully comply with this Integrity Pact, and will not raise any objections or file any civil or criminal claims against KEPCO E&C for the measures taken by KEPCO E&C.

By: \_\_\_\_\_

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

Title: \_\_\_\_\_

**C. PAYMENT TERMS**

- Contractor shall submit to KEPCO E&C an invoice for the 45% USD of contract price and Service Acceptance Certificate after completion of delivery of all preliminary reports;
- Contractor shall submit to KEPCO E&C an invoice for the 55% USD of contract price and Service Acceptance Certificate after completion of delivery of all final reports.