

Section I. Instructions to Bidders

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A. General

- 1. Scope of Bid**
- 1.1 In support of the Invitation for Bids indicated in the Bid Data Sheet (BDS), the Purchaser, as indicated in the BDS, issues this Bidding Document for the supply of Goods and Related Services incidental thereto as specified in Section VI, Schedule of Supply (SS). The name, identification, and number of lots of the National Competitive Bidding (NCB) are provided in the BDS.
- 1.2 Throughout this Bidding Document :
- (a) the term “in writing” means communicated in written form with proof of receipt;
 - (b) if the context so requires, singular means plural and vice versa; and
 - (c) “day” means calendar day.
- 2. Source of Funds**
- 2.1 The Borrower or Recipient (hereinafter called “Borrower”) indicated in the BDS has applied for or received financing (hereinafter called “funds”) from the Asian Development Bank (hereinafter called “the ADB”) toward the cost of the project named in the BDS. The Borrower intends to apply a portion of the funds to eligible payments under the contract for which this Bidding Document is issued.
- 2.2 Payments by the ADB will be made only at the request of the Borrower and upon approval by the ADB in accordance with the terms and conditions of the financing agreement between the Borrower and the ADB (hereinafter called the Loan Agreement), and will be subject in all respects to the terms and conditions of that Loan Agreement. No party other than the Borrower shall derive any rights from the Loan Agreement or have any claim to the funds.
- 2.3 The Loan Agreement prohibits a withdrawal from the loan account for the purpose of any payment to persons or entities, or for any import of equipment, plant, or materials, if such payment or import is prohibited by a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations.
- 3. Corrupt Practices**
- 3.1 ADB’s Anticorruption Policy requires borrowers (including beneficiaries of ADB-financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the ADB:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “corrupt practice” means the offering, giving,

- receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
 - (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
 - (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party;
- (b) will reject a proposal for award if it determines that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract;
 - (c) will cancel the portion of the financing allocated to a contract if it determines at any time that representatives of the borrower or of a beneficiary of ADB-financing engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the borrower having taken timely and appropriate action satisfactory to ADB to remedy the situation;
 - (d) will sanction a firm or an individual, at any time, in accordance with ADB’s Anticorruption Policy and Integrity Principles and Guidelines (both as amended from time to time), including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed or ADB-administered activities or to benefit from an ADB-financed or ADB-administered contract, financially or otherwise, if it at any time determines that the firm or individual has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive or other prohibited practices; and
 - (e) will have the right to require that a provision be included in bidding documents and in contracts financed by ADB, requiring bidders, suppliers and contractors to permit ADB or its representative to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by ADB.

- 3.2 Furthermore, Bidders shall be aware of the provision stated in Sub-Clause 3.2 and Sub-Clause 35.1 (c) of the General

4. Eligible Bidders

Conditions of Contract.

- 4.1 A Bidder may be a natural person, private entity, government-owned entity (subject to ITB Sub-Clause 4.5) or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:
- (a) all parties to the JV shall be jointly and severally liable; and
 - (b) a JV shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution.
- 4.2 A Bidder, and all parties constituting the Bidder, shall have the nationality of an eligible country, in accordance with Section V, Eligible Countries. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.
- 4.3 ADB considers a conflict of interest to be a situation in which a party has interests that could improperly influence that party's performance of official duties or responsibilities, contractual obligations, or compliance with applicable laws and regulations, and that such conflict of interest may contribute to or constitute a prohibited practice under ADB's Anticorruption Policy. In pursuance of ADB's Anticorruption Policy's requirement that Borrowers (including beneficiaries of ADB-financed activity), as well as bidders, suppliers, and contractors under ADB-financed contracts, observe the highest standard of ethics. ADB will take appropriate actions, which include not financing of the contract, if it determines that a conflict of interest has flawed the integrity of any procurement process. Consequently all Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process if, including but not limited to:
- (a) have controlling shareholders in common; or
 - (b) receive or have received any direct or indirect subsidy from any of them; or
 - (c) have the same legal representative for purposes of this Bid; or
 - (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have

access to information about or influence on the Bid of another Bidder, or influence the decisions of the Purchaser regarding this bidding process; or

- (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which it is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one bid; or
 - (f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods and services that are the subject of the bid.
- 4.4 A firm shall not be eligible to participate in any procurement activities under an ADB-financed or ADB-supported project while under sanction by ADB pursuant to its Anticorruption Policy (see ITB 3), whether such sanction was directly imposed by ADB, or imposed by ADB pursuant to the Agreement for Mutual Enforcement of Debarment Decisions. A bid from a sanctioned or cross-debarred firm will be rejected.
- 4.5 Government-owned enterprises in the Purchaser's country shall be eligible only if they can establish that they are legally and financially autonomous and operate under commercial law, and that they are not a dependent agency of the Purchaser.
- 4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 4.7 Firms shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's country prohibits any import of goods or contracting of works or services from that country or any payments to persons or entities in that country.

5. Eligible Goods and Related Services

- 5.1 All goods and related services to be supplied under the Contract and financed by the ADB, shall have as their country of origin an eligible country of the ADB (see Section V, Eligible Countries).
- 5.2 For purposes of this Clause, the term "goods" includes commodities, raw material, machinery, equipment, and industrial plants; and "related services" includes services such as insurance, installation, training, and initial maintenance.
- 5.3 The term "country of origin" means the country where the goods have been mined, grown, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized

article results that differs substantially in its basic characteristics from its imported components.

- 5.4 The nationality of the firm that produces, assembles, distributes, or sells the goods shall not determine their origin.
- 5.5 If so required in the BDS, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section V, Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's country.

B. Contents of Bidding Document

- 6. Sections of the Bidding Document** 6.1 The Bidding Document consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addenda issued in accordance with ITB Clause 8.

PART 1 Bidding Procedures

- Section I. Instructions to Bidders (ITB)
- Section II. Bid Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria
- Section IV. Bidding Forms
- Section V. Eligible Countries

PART 2 Supply Requirements

- Section VI. Schedule of Supply

PART 3 Contract

- Section VII. General Conditions of Contract (GCC)
- Section VIII. Special Conditions of Contract (SCC)
- Section IX. Contract Forms

- 6.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Document.
- 6.3 The Purchaser is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the Purchaser.
- 6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the Bid.

- 7. Clarification of Bidding Document** 7.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days

prior to the deadline for submission of Bids. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 8 and Sub-Clause 24.2.

- 8. Amendment of Bidding Document**
- 8.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.
- 8.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB Sub-Clause 24.2

C. Preparation of Bids

- 9. Cost of Bidding**
- 9.1 The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid**
- 10.1 The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the language specified in the BDS. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the BDS, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 11. Documents Comprising the Bid**
- 11.1 The Bid shall comprise two envelopes submitted simultaneously, one containing the Technical Proposal and the other the Price Proposal, enclosed together in an outer single envelope.
- 11.2 Initially, only the Technical Proposals are opened at the address, date and time specified in ITB Sub-Clause 27.1. The Price Proposals remain sealed and are held in custody by the Purchaser. The Technical Proposals are evaluated by the Purchaser. No amendments or changes to the Technical Proposals are permitted. Bids with Technical Proposals which do not conform to the specified requirements will be rejected as deficient Bids.
- 11.3 Price Proposals of technically compliant Bids are opened in public at a date and time advised by the Purchaser. The Price Proposals are evaluated and the Contract is awarded to the Bidder whose Bid has been determined to be the lowest

evaluated substantially responsive Bid.

- 11.4 The Technical Proposal shall contain the following :
- (a) Technical Proposal Submission Sheet;
 - (b) Bid Security, in accordance with ITB Clause 21;
 - (c) alternative Technical Proposal, if permissible, in accordance with ITB Clause 13;
 - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 22;
 - (e) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
 - (f) documentary evidence in accordance with ITB Clause 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
 - (g) documentary evidence in accordance with ITB Clauses 18 and 30, that the Goods and Related Services conform to the Bidding Document;
 - (h) documentary evidence in accordance with ITB Clause 19 establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
 - (i) any other document required in the BDS.
- 11.5 The Price Proposal shall contain the following :
- (a) Price Proposal Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
 - (b) alternative Price Proposal corresponding to the alternative Technical Proposal, if permissible, in accordance with ITB Clause 13; and
 - (c) any other document required in the BDS.

- 12. Bid Submission Sheets and Price Schedules**
- 12.1 The Bidder shall submit the Technical Proposal and the Price Proposal using the appropriate Submission Sheets furnished in Section IV, Bidding Forms. These forms must be completed without any alterations to their format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Bidder shall submit, as part of the Price Proposal, the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Bidding Forms.
- 13. Alternative Bids**
- 13.1 Unless otherwise indicated in the BDS, alternative bids shall not be considered.

14. Bid Prices and Discounts

- 14.1 The prices and discounts quoted by the Bidder in the Price Proposal Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All items in the Schedule of Supply must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment shall be applied in accordance with ITB Sub-Clause 31.3
- 14.3 The price to be quoted in the Price Proposal Submission Sheet excluding any discounts offered.
- 14.4 The Bidder shall quote any unconditional discounts and the methodology for their application in the Price Proposal Submission Sheet.
- 14.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, at the date of the Invitation for Bids or as specified in the BDS.
- 14.6 Prices proposed in the Price Schedule Forms for Goods and Related Services, shall be disaggregated, when appropriate, as indicated in this sub-clause. This disaggregation shall be solely for the purpose of facilitating the comparison of Bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered:
- (a) For Goods offered from within the Purchaser's country:
 - (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory, or on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf;
 - (ii) sales tax and all other taxes applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
 - (iii) the total price for the item.
 - (b) For Goods offered from outside the Purchaser's country:
 - (i) the price of the goods quoted CIF(named port of destination), or CIP (border point), or CIP (named place of destination), in the Purchaser's country, as specified in the BDS;

- (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the BDS.
 - (iii) the total price for the item.
- (c) For Related Services:
- (i) the local currency cost component of each item comprising the Related Services; and
 - (ii) the foreign currency cost component of each item comprising the Related Services,

inclusive of all custom duties, sales and other similar taxes applicable in the Purchaser's country, payable on the Related Services, if the Contract is awarded to the Bidder

14.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as nonresponsive and shall be rejected, pursuant to ITB Clause 30. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a Bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

14.8 If so indicated in ITB Sub-Clause 1.1, Bids are being invited for individual contracts (lots) or for any combination of contracts (packages), Bidders wishing to offer any price reduction for the award of more than one Contract shall specify in their Price Proposals the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Price reductions or discounts shall be submitted in accordance with ITB Sub-Clause 14.4, provided the Price Proposals for all lots are submitted and opened at the same time.

15. Currencies of Bid

- 15.1 Bid prices shall be quoted in the following currencies:
- (a) Bidders may express their bid price in any fully convertible currency. If a Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three currencies in addition to the currency of the Purchaser's country.
 - (b) If some of the expenditures for the Related Services are to be incurred in the borrowing country, such expenditures should be expressed in the Bid and will be payable in the Purchaser's currency.

16. Documents

- 16.1 To establish their eligibility in accordance with ITB Clause 4,

- Establishing the Eligibility of the Bidder**
- Bidders shall:
- (a) complete the eligibility declarations in the Bid Submission Sheet, included in Section IV, Bidding Forms; and
 - (b) if the Bidder is an existing or intended JV in accordance with ITB Sub-Clause 4.1, submit a copy of the JV Agreement, or a letter of intent to enter into such an Agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended JV, as appropriate.
- 17. Documents Establishing the Eligibility of Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services, in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.
- 18. Documents Establishing the Conformity of the Goods and Related Services to the Bidding Document**
- 18.1 To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Technical Proposal the documentary evidence specified in Section VI, Schedule of Supply.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to those requirements, and if applicable, a statement of deviations and exceptions to the provisions of Section VI, Schedule of Supply.
- 18.3 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Supply, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Supply.
- 19. Documents Establishing the Qualifications of the Bidder**
- 19.1 To establish its qualifications to perform the Contract, the Bidder shall submit as part of its Technical Proposal the evidence indicated for each qualification criteria specified in Section III, Evaluation and Qualification Criteria.
- 19.2 If so required in the **BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV,

Bidding Forms to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in the Purchaser's country.

- 19.3 If so required in the **BDS**, a Bidder that does not conduct business within the Purchaser's Country shall submit evidence that it will be represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.
- 20. Period of Validity of Bids**
- 20.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Purchaser. A Bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 21, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 21. Bid Security**
- 21.1 Unless otherwise specified in the **BDS**, the Bidder shall furnish as part of its bid, in original form, either a Bid Securing Declaration or a Bid Security as specified in the **BDS**. In the case of a Bid Security, the amount shall be as specified in the **BDS**.
- 21.2 If a Bid-Securing Declaration is specified pursuant to ITB 21.1 the Bidder shall use the form included in Section IV, Bidding Forms.
- 21.3 The Bid Security shall be, at the Bidder's option, in any of the following forms:
- (a) a bank guarantee;
 - (b) an irrevocable letter of credit; or
 - (c) a cashier's or certified check;
- all from a reputable bank from an eligible country. In case of a a bank guarantee, the Bid Security shall be submitted using the Bid Security Form included in Section IV, Bidding Forms, or another form acceptable to the Purchaser. The form must include the complete name of the Bidder. The Bid Security shall be valid for twenty-eight days (28) beyond the end of the validity period of the bid. This shall also apply if the period for bid validity is extended.
- 21.4 If a bid Security is required in accordance with ITB Sub-Clause 21.1, any Bid not accompanied by a substantially responsive Bid Security in accordance with ITB Sub-Clause 21.2, shall be rejected by the Purchaser as nonresponsive.
- 21.5 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder furnishing the

Performance Security pursuant to ITB 43 and ITB Clause 44.

21.6 The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract and furnished the required Performance Security.

21.7 The Bid Security may be forfeited or the Bid-Securing Declaration executed:

(a) if a Bidder withdraws its Bid during the period of bid validity as specified in ITB Clause 20.1, except as provided in ITB Sub-Clause 20.2; or

(b) if the successful Bidder fails to :

(i) sign the Contract in accordance with ITB Clause 43;

(ii) furnish a Performance Security in accordance with ITB Clause 44; or

(iii) accept the correction of its Bid Price pursuant to ITB Clause 31.

21.8 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in ITB Sub-Clause 16.1.

22. Format and Signing of Bid

22.1 The Bidder shall prepare one original of the Technical Proposal and one original of the Price Proposal as described in ITB Clause 11 and clearly mark each “ORIGINAL - TECHNICAL PROPOSAL” and “ORIGINAL - PRICE PROPOSAL”. In addition, the Bidder shall submit copies of the Technical Proposal and the Price Proposal, in the number specified in the BDS and clearly mark them “COPY NO... - TECHNICAL PROPOSAL” and “COPY NO.... - PRICE PROPOSAL”. In the event of any discrepancy between the original and the copies, the original shall prevail.

22.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation as specified in the BDS and shall be attached to the Bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the Bid, except for un-amended printed literature, shall be signed or initialled by the person signing the Bid.

22.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person signing the Bid.

D. Submission and Opening of Bids

23. Sealing and Marking of

23.1 The Bidder shall enclose the original of the Technical Proposal, the original of the Price Proposal, and each copy of the Technical Proposal and each copy of the Price Proposal,

- Bids** including alternative bids, if permitted in accordance with ITB Clause 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL - TECHNICAL PROPOSAL”, “ORIGINAL - PRICE PROPOSAL” and “COPY NO... - TECHNICAL PROPOSAL” and “COPY NO.... - PRICE PROPOSAL”, as appropriate. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 23.2 The inner and outer envelopes shall:
- (a) bear the name and address of the Bidder;
 - (b) be addressed to the Purchaser in accordance with ITB Sub-Clause 24.1; and
 - (c) bear the specific identification of this bidding process indicated in the BDS.
- 23.3 The outer envelopes and the inner envelopes containing the Technical Proposals shall bear a warning not to open before the time and date for the opening of Technical Proposals, in accordance with ITB Sub-Clause 27.1.
- 23.4 The inner envelopes containing the Price Proposals shall bear a warning not to open until advised by the Purchaser in accordance with ITB Sub-Clause 27.2.
- 23.5 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the bid.
- 23.6 Alternative Bids, if permissible in accordance with ITB Clause 13, shall be prepared, sealed, marked, and delivered in accordance with the provisions of ITB Clauses 22 and 23, with the inner envelopes marked in addition “ALTERNATIVE NO....” as appropriate
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Purchaser at the address and no later than the date and time indicated in the BDS.
- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB Clause 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 25. Late Bids**
- 25.1 The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB Clause 24. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal, Substitution,**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written Notice, duly signed by

**and
Modification of
Bids**

an authorized representative, and shall include a copy of the authorization in accordance with ITB Sub-Clause 22.2 (except that withdrawal notices do not require copies). The corresponding substitution or modification of the bid must accompany the respective written notice. All Notices must be:

- (a) submitted in accordance with ITB Clauses 22 and 23 (except that Withdrawal Notices do not require copies), and in addition, the respective inner and outer envelopes shall be clearly marked “Withdrawal,” “Substitution,” “Modification”; and
- (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 24.

26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 26.1 shall be returned unopened to the Bidders.

26.3 No Bid shall be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified in ITB Clause 20.1 or any extension thereof.

27. Bid Opening

27.1 The Purchaser shall conduct the opening of Technical Proposals in the presence of Bidders’ representatives who choose to attend, at the address, date and time specified in the BDS.

27.2 The Price Proposals will remain unopened and will be held in custody of the Purchaser until the time of opening of the Price Proposals. The date, time, and location of the opening of Price Proposals will be advised in writing by the Purchaser. If the Technical Proposal and the Price Proposal are submitted together in one envelope, the Purchaser may reject the Bid. Alternatively, the Price Proposal may be immediately resealed for later evaluation.

27.3 First, envelopes marked “WITHDRAWAL” shall be opened, read out, and recorded, and the envelope containing the corresponding Bid shall not be opened, but returned to the Bidder. No Bid shall be withdrawn unless the corresponding Withdrawal Notice contains a valid authorization to request the withdrawal and is read out and recorded at bid opening.

27.4 Next, outer envelopes marked “SUBSTITUTION” shall be opened. The inner envelopes containing the Substitution Technical Proposal and/or Substitution Price Proposal shall be exchanged for the corresponding envelopes being substituted, which are to be returned to the Bidder unopened. Only the Substitution Technical Proposal, if any, shall be opened, read out, and recorded. Substitution Price Proposals will remain unopened in accordance with ITB Sub-Clause 27.2. No envelope shall be substituted unless the corresponding Substitution Notice contains a valid authorization to request

the substitution and is read out and recorded at bid opening.

27.5 Next, outer envelopes marked “MODIFICATION” shall be opened. No Technical Proposal and/or Price Proposal shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at the opening of Technical Proposals. Only the Technical Proposals, both Original as well as Modification, are to be opened, read out, and recorded at the opening. Price Proposals, both Original as well as Modification, will remain unopened in accordance with ITB Sub-Clause 27.2.

27.6 All other envelopes holding the Technical Proposals shall be opened one at a time, and the following read out and recorded :

- (a) the name of the Bidder;
- (b) whether there is a modification or substitution;
- (c) the presence of a Bid Security, if required; and
- (d) any other details as the Purchaser may consider appropriate.

Only Technical Proposals and alternative Technical Proposals read out and recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at the opening of Technical Proposals except for late bids, in accordance with ITB Sub-Clause 25.1.

27.7 The Purchaser shall prepare a record of the opening of Technical Proposals that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, modification, or alternative offer; and the presence or absence of a Bid Security, if one was required. The Bidders’ representatives who are present shall be requested to sign the record. The omission of a Bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

27.8 At the end of the evaluation of the Technical Proposals, the Purchaser will invite bidders who have submitted substantially responsive Technical Proposals and who have been determined as being qualified for award to attend the opening of the Price Proposals. The date, time, and location of the opening of Price Proposals will be advised in writing by the Purchaser. Bidders shall be given reasonable notice of the opening of Price Proposals.

27.9 The Purchaser will notify Bidders in writing who have been rejected on the grounds of being substantially non-responsive to the requirements of the Bidding Document and return their Price Proposals unopened.

27.10 The Purchaser shall conduct the opening of Price Proposals of

all Bidders who submitted substantially responsive Technical Proposals, in the presence of Bidders' representatives who choose to attend at the address, date and time specified by the Purchaser. The Bidder's representatives who are present shall be requested to sign a register evidencing their attendance.

- 27.11 All envelopes containing Price Proposals shall be opened one at a time and the following read out and recorded :
- (a) the name of the Bidder
 - (b) whether there is a modification or substitution;
 - (c) the Bid Prices, including any discounts and alternative offers; and
 - (d) any other details as the Purchaser may consider appropriate.

Only Price Proposals, discounts, and alternative offers read out and recorded during the opening of Price Proposals shall be considered for evaluation. No Bid shall be rejected at the opening of Price Proposals.

- 27.12 The Purchaser shall prepare a record of the opening of Price Proposals that shall include, as a minimum: the name of the Bidder, the Bid Price (per lot if applicable), any discounts, and alternative offers. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

E. Evaluation and Comparison of Bids

- 28. Confidentiality**
- 28.1 Information relating to the examination, evaluation, comparison, and post qualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until information on Contract award is communicated to all Bidders.
- 28.2 Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and post qualification of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB Sub-Clause 28.2, from the time of opening the Technical Proposals to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.
- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder that is not in response to a request by the

Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Price Proposals, in accordance with ITB Clause 31.

30. Responsiveness of Technical Proposal

30.1 The Purchaser's determination of the responsiveness of a Technical Proposal is to be based on the contents of the Technical Proposal itself.

30.2 A substantially responsive Technical Proposal is one that conforms to all the terms, conditions, and specifications of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:

- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
- (b) limits in any substantial way, inconsistent with the Bidding Document, the Purchaser's rights or the Bidder's obligations under the Contract; or
- (c) if rectified would unfairly affect the competitive position of other Bidders presenting substantially responsive Technical Proposals.

30.3 If a Technical Proposal is not substantially responsive to the Bidding Document, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.

31. Nonconformities, Errors, and Omissions

31.1 Provided that a Technical Proposal is substantially responsive, the Purchaser may waive any non-conformity or omission in the Bid that does not constitute a material deviation.

31.2 Provided that a Technical Proposal is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial, nonconformities or omissions in the Technical Proposal related to documentation requirements. Such omission shall not be related to any aspect of the Price Proposal of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

31.3 Provided that a Technical Proposal is substantially responsive, the Purchaser will rectify nonmaterial nonconformities or omissions. To this effect, the Bid Price shall be adjusted during evaluation of Price Proposals, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The adjustment shall be made using the method indicated in Section III, Evaluation and Qualification Criteria.

- 31.4 Provided that the Technical Proposal is substantially responsive, the Purchaser will correct arithmetical errors during evaluation of Price Proposals on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 31.5 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be disqualified and its Bid Security may be forfeited, or its bid securing declaration shall be executed.

32. Preliminary Examination of Bids

- 32.1 The Purchaser shall examine the Technical Proposal to confirm that all documents and technical documentation requested in ITB Sub-Clause 11.4 have been provided, and to determine the completeness of each document submitted.
- 32.2 The Purchaser shall confirm that the following documents and information have been provided in the Technical Proposal. If any of these documents or information is missing, the offer shall be rejected.
- (a) Technical Proposal Submission Sheet in accordance with ITB Sub-Clause 12.1;
 - (b) written confirmation of authorization to commit the Bidder;
 - (c) Bid Security, if applicable; and
 - (d) Manufacturer's Authorization, if applicable.
- 32.3 Likewise, following the opening of Price Proposals, the Purchaser shall examine the Price Proposals to confirm that all documents and financial documentation requested in ITB Sub-Clause 11.5 have been provided, and to determine the completeness of each document submitted.
- 32.4 The Purchaser shall confirm that the following documents and information have been provided in the Price Proposal. If any of these documents or information is missing, the offer shall be

- rejected.
- (a) Price Proposal Submission Sheet in accordance with ITB Sub-Clause 12.1; and
 - (b) Price Schedules, in accordance with ITB Clauses 12, 14, and 15.
- 33. Examination of Terms and Conditions; Technical Evaluation**
- 33.1 The Purchaser shall examine the Bids to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.
- 33.2 The Purchaser shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 18, to confirm that all requirements specified in Section VI, Schedule of Supply of the Bidding Document have been met without any material deviation or reservation.
- 33.3 If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Technical Proposal is not substantially responsive in accordance with ITB Clause 30, it shall reject the Bid.
- 34. Conversion to Single Currency**
- 34.1 For evaluation and comparison of Price Proposals, the Purchaser shall convert all bid prices expressed in the amounts in various currencies into a single currency, using the selling exchange rates established by the source and on the date specified in the BDS.
- 35. Margin of Preference**
- 35.1 Unless otherwise specified in the BDS, a margin of preference shall not apply.
- 36. Evaluation of Bids**
- 36.1 The Purchaser shall evaluate Price Proposals of each Bid for which the Technical Proposal has been determined to be substantially responsive.
- 36.2 To evaluate a Price Proposal, the Purchaser shall only use all the criteria and methodologies defined in this Clause and in Section III, Evaluation and Qualification Criteria. No other criteria or methodology shall be permitted.
- 36.3 To evaluate a Price Proposal, the Purchaser shall consider the following:
- (a) the Bid Price;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 31.4;
 - (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 14.4;
 - (d) application of all the evaluation factors indicated in Section III, Evaluation and Qualification Criteria.
- 36.4 In the calculation of the evaluated cost of the Bids, the

Purchaser shall exclude and not take into account:

- (a) in the case of Goods and Related Services offered from within the Purchaser's country, all sales tax and all other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder;
- (b) in the case of Goods and Related Services offered from outside the Purchaser's country, all customs duties, sales tax, and other taxes, applicable in the Purchaser's country and payable on the Goods if the Contract is awarded to the Bidder; and
- (c) any allowance for price adjustment during the period of performance of the Contract, if provided in the Bid.

36.5 The Purchaser's cost evaluation of a Bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The factors selected, if any, shall be expressed in monetary terms to facilitate comparison of the Bids, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors to be used and the methodology of application shall be as indicated in Section III, Evaluation and Qualification Criteria.

36.6 If this Bidding Document allows Bidders to quote separate prices for different lots, and the award to a single Bidder of multiple lots, the methodology of evaluation to determine the lowest evaluated lot combinations, including any discounts offered in the Bid Submission Sheet, is as specified in Section III, Evaluation and Qualification Criteria.

37. Comparison of Bids

37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 36..

38. Postqualification of the Bidder

38.1 The Purchaser shall determine to its satisfaction during the evaluation of Technical Proposals whether Bidders are qualified to perform the Contract satisfactorily.

38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 19, to clarifications in accordance with ITB Clause 29 and the qualification criteria indicated in Section III, Evaluation and Qualification Criteria. Factors not included in Section III, Evaluation and Qualification Criteria shall not be used in the evaluation of the Bidder's qualification.

38.3 An affirmative determination shall be a prerequisite for the opening and evaluation of a Bidder's Price Proposal. A negative determination shall result into the disqualification of

the Bid, in which event the Purchaser shall return the unopened Price Proposal to the Bidder.

- 39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 39.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.

F. Award of Contract

- 40. Award Criteria** 40.1 The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder has remained qualified to perform the Contract satisfactorily.
- 40.2 A Bid shall be rejected if the qualification criteria as specified in Section III, Evaluation and Qualification Criteria are no longer met by the Bidder whose offer has been determined to be the lowest evaluated Bid. In this event the Purchaser shall proceed to the next lowest evaluated Bid to make a similar reassessment of that Bidder's capabilities to perform satisfactorily.
- 41. Purchaser's Right to Vary Quantities at Time of Award** 41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section VI, Schedule of Supply, provided this does not exceed the percentages indicated in the BDS, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
- 42. Notification of Award** 42.1 Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted. At the same time, the Purchaser shall also notify all other Bidders of the results of the bidding.
- 42.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 42.3 The Purchaser will publish in an English language newspaper or well-known freely accessible website the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices (lot-wise, if applicable) as read out at bid opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful bidders may request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their bids were

not selected. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, requests a debriefing.

43. Signing of Contract

43.1 Promptly after notification, the Purchaser shall send to the successful Bidder the Agreement and the Special Conditions of Contract.

43.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.

44. Performance Security

44.1 Within twenty-eight (28) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section IX, Contract Forms, or another form acceptable to the Purchaser.

44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.