

STANDARD BIDDING DOCUMENT

# **Procurement of Goods**

## **User's Guide**

**Asian Development Bank**

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## Abbreviations

ADB .....	Asian Development Bank
BDS.....	Bid Data Sheet
BD .....	Bidding Document
DCS.....	Delivery and Completion Schedule
EQC .....	Evaluation and Qualification Criteria
GCC .....	General Conditions of Contract
ICC.....	International Chamber of Commerce
IFB .....	Invitation for Bids
Incoterms.....	International Commercial Terms
ITB .....	Instructions to Bidders
LGRS .....	List of Goods and Related Services
SBD.....	Standard Bidding Document
SBQ.....	Schedule of Bidder Qualifications
SCC.....	Special Conditions of Contract
SS .....	Schedule of Supply
TS.....	Technical Specifications

# Introduction

ADB has adopted four bidding procedures from which the Purchaser may select one to suit the nature of the particular procurement. The bidding procedures are:

- (a) Single-Stage: One-Envelope
- (b) Single-Stage: Two-Envelope
- (c) Two-Stage: Two-Envelope
- (d) Two-Stage

Accordingly, four types of the Standard Bidding Document (SBD) for the Procurement of Goods and Related Services have been prepared to facilitate the above four bidding procedures. Detailed information on bidding procedures is given below under the section “Bidding Procedures”.

This User’s Guide has been prepared to cover the four types of the SBD for Procurement of Goods and Related Services. The SBD has been designed to:

- (a) simplify the Purchaser’s preparation of a specific bidding document (BD) for Procurement of Goods and Related Services;
- (b) reduce the Bidders’ bidding time and effort;
- (c) facilitate and simplify the Purchaser’s evaluation and comparison of bids and Contract award; and
- (d) minimize the ADB’s time required for the prior review of the BD.

Another important feature of the SBD is that it can be used with minimum changes, as it does not contain explanations, footnotes or examples that should not form part of the BD. The purpose of the User’s Guide (the Guide) is to provide guidance to Purchasers on how to prepare a BD based on the SBD.

The provisions in **Section I, Instructions to Bidders** and **Section VII, General Conditions of Contract, must be used with their text unchanged**. Any data and provisions that these sections require for a specific procurement and contract shall be included respectively in **Section II, Bid Data Sheet** and **Section VIII, Special Conditions of Contract**.

The Guide includes an initial section on how to prepare the Invitation for Bids (IFB). The Purchaser should note that **the IFB is neither a part of the Bidding Document nor a Contract Document**.

# The Bidding Process

The International Competitive Bidding (ICB) process includes six main phases: Advertisement and Notification, Preparation and Issuing of the Bidding Document, Bid Preparation and Submission, Bid Opening, Bid Evaluation, and Contract Award.

## Advertisement and Notification

Invitation for Bids (IFB) shall be advertised in the ADB's "ADB Business Opportunities" as well as in a newspaper of general circulation in the borrower's country (at least one English language newspaper if available). A copy of the IFB shall be submitted to ADB for approval and for publication in the "ADB Business Opportunities" in accordance with the provisions of the Loan Agreement.

For large or specialized contracts, ADB may additionally require that the IFB be advertised in well-known technical magazines or trade publications, or in newspapers of wide international circulation, in sufficient time to enable prospective Bidders to prepare and submit Bids.

## Preparing and Issuing a Bidding Document

The Purchaser and Bidder should keep in mind that:

- (a) The Purchaser is responsible for preparing and issuing the Bidding Document (BD).
- (b) The Purchaser shall use the SBD issued by ADB, as this is a mandatory requirement for contracts to be financed by ADB.
- (c) The Purchaser shall prepare the BD using the published version of the SBD without suppressing or adding text to the sections of the document that must be used without modification, which are Section I, Instructions to Bidders (ITB) and Section VII, General Conditions of Contract (GCC). All information and data particular to each individual bidding process must be provided by the Purchaser in the following sections of the BD:
  - Section II : Bid Data Sheet
  - Section III : Evaluation and Qualification Criteria
  - Section IV : Bidding Forms
  - Section V : Eligible Countries
  - Section VI : Schedule of Supply
  - Section VIII : Special Conditions of Contract
  - Section IX : Contract Forms
- (d) The Purchaser shall allow Bidders sufficient time to study the BD, prepare complete and responsive Bids, and submit their Bids.

## **Bid Preparation and Submission**

The Bidder is solely responsible for the preparation and submission of its Bid. During this stage, the Purchaser shall:

- (a) Promptly respond to requests for clarifications from Bidders and amend, as needed, the BD.
- (b) Amend the BD only with prior approval of ADB.

## **Bid Opening**

The Purchaser is responsible for the Bid Opening, which is a critical event in the bidding process. The Purchaser shall appoint experienced staff to conduct the Bid Opening, as inappropriate procedures at Bid Opening are usually irreversible and may require cancellation of the bidding process with consequent delays and waste of resources.

## **Best Bid-Opening Practices to Observe**

The Purchaser, in observance of best practices, shall:

- (a) Conduct the Bid Opening strictly following the procedures as specified in the ITB Sub-Clause 27 for all Bids received not later than the date and time of the bid submission deadline. The term “Bid Opening” can be misleading because a Bid for which a Bid Withdrawal or Bid Substitution notice was received on time shall not be opened, but returned unopened to the Bidder. The sequence in which Bids are handled, opened, and recorded is crucial.
- (b) Ensure that all Bids that were received on time are accounted for, before starting the Bid Opening, as Bids that are not opened and read out at Bid Opening shall not be considered further.
- (c) Not reject any Bid at Bid Opening, except for late bids received after the date and time of the bid submission deadline. Technically, late bids should not reach the Bid Opening, but in certain cases a Bidder may attempt to submit its bid at the Bid Opening place after the deadline.
- (d) Examine the Bids at Bid Opening in accordance with the provisions of ITB Sub-Clause 32. The Purchaser shall, however, verify at Bid Opening the validity of the documentation (Power of Attorney or other acceptable equivalent document as specified in ITB Sub-Clause 26) confirming the validity of a bid modification, bid withdrawal, or bid substitution, because a withdrawn or substituted bid shall not be opened and in consequence not read out and, therefore, not be considered by the Purchaser. Similarly, a bid modification shall be opened, read out, and recorded to modify a bid that was received on time.

## **Bid Evaluation and Contract Award**

The Purchaser is responsible for bid evaluation and Contract award. The Purchaser shall appoint experienced staff to conduct the evaluation of the Bids. Mistakes committed at bid evaluation may later prompt complaints from Bidders, requiring reevaluation of the Bids, with consequent delays and waste of resources.

The Purchaser, in observance of best practices, shall:

- (a) Maintain the bid evaluation process strictly confidential.
- (b) Reject any attempts or pressures to distort the outcome of the evaluation, including fraud and corruption.
- (c) Strictly apply only and all of the evaluation and qualification criteria specified in the BD.

# Bidding Procedures

ADB has adopted four bidding procedures from which the Purchaser may select one to suit the nature of the particular procurement. The bidding procedures are:

- (a) **Single-Stage: One-Envelope**
- (b) **Single-Stage: Two-Envelope**
- (c) **Two-Stage: Two-Envelope**
- (d) **Two-Stage**

The Single-Stage: One-Envelope bidding procedure is the main bidding procedure used for most of the procurement financed by the ADB. The Single-Stage: Two-Envelope bidding procedure allows bids to be evaluated on purely technical and administrative grounds without reference to price. The Two-Stage: Two-Envelope bidding procedure should be used for procurement where alternative technical proposals are possible, such as certain types of machinery or equipment or manufacturing plant. The Two-Stage bidding procedure may be adopted in large and complex contracts where technically unequal proposals are likely to be encountered or where the Purchaser is aware of its options in the market but, for a given set of performance requirements, there are two or more equally acceptable technical solutions available to the Purchaser.

## Single-Stage: One-Envelope Bidding Procedure

In the Single-Stage: One-Envelope bidding procedure, Bidders submit Bids in one envelope containing both the Price Proposal and the Technical Proposal. The envelopes are opened in public at the date and time advised in the Bidding Document. The Bids are evaluated, and following approval by the ADB, the Contract is awarded to the Bidder whose Bid has been determined to be the lowest evaluated substantially responsive Bid.

## Single-Stage: Two-Envelope Bidding Procedure

In the Single-Stage: Two-Envelope bidding procedure, Bidders submit two sealed envelopes simultaneously, one containing the Technical Proposal and the other the Price Proposal, enclosed together in an outer single envelope. Initially, only the Technical Proposals are opened at the date and time advised in the Bidding Document. 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. The objective of the exercise is to allow the Purchaser to evaluate the Technical Proposals without reference to price. Bids of Bidders which do not conform to the specified requirements may be rejected as deficient Bids, with the approval of the ADB. Following ADB approval of the technical evaluation, and at an address, date and time advised by the Purchaser, the Price Proposals are opened in public. The Price Proposals are evaluated and, following approval by the ADB of the price evaluation, the Contract is awarded to the Bidder whose Bid has been determined to be the lowest evaluated substantially responsive Bid.

## **Two-Stage: Two-Envelope Bidding Procedure**

In the Two-Stage: Two-Envelope bidding procedure, at the first stage, Bidders submit two sealed envelopes simultaneously, one containing the Technical Proposal and the other the Price Proposal, enclosed together in an outer single envelope. Only the Technical Proposals are opened at the date and time advised in the Bidding Document, and the Price Proposals remain sealed and are held in custody by the Purchaser. The Technical Proposals are evaluated and if the Purchaser requires amendments or changes to the Technical Proposals, such amendments and changes are discussed with the Bidders. The Bidders are allowed to revise or adjust their Technical Proposals to meet the requirements of the Purchaser. The objective of the exercise is to ensure that all Technical Proposals conform to the same acceptable technical standard and meet the technical solution required by the Purchaser. Bids of Bidders who are unable or unwilling to bring their Technical Proposals to conform to the acceptable technical standard will be rejected as deficient Bids with the approval of the ADB. Following ADB approval of the evaluation of Technical Proposals, Bidders are invited, at the second stage, to submit Modified Bid Proposals consisting of Revised Technical Proposals and Supplementary Price Proposals based on the technical standard agreed. The original Price Proposals and the Modified Bid Proposals are opened at an address, date, and time advised by the Purchaser. In setting the date the Purchaser will allow sufficient time for the Bidders to incorporate the changes in the Revised Technical Proposals that are needed to meet the agreed technical standard and to prepare the Supplementary Price Proposals that reflect these changes. The Price Proposals, Supplementary Price Proposals, and Revised Technical Proposals are evaluated, and following approval by the ADB, the Contract is awarded to the Bidder whose Bid is determined to be the lowest evaluated substantially responsive Bid.

## **Two-Stage Bidding Procedure**

In the Two-Stage bidding procedure, Bidders first submit their Technical Proposals, in accordance with the specifications, but without prices. The Technical Proposals are opened at the address, date and time advised in the Bidding Document. The Technical Proposals are evaluated and discussed with the Bidders. Any deficiencies, extraneous provisions and unsatisfactory technical features are pointed out to the Bidders whose comments are carefully evaluated. The Bidders are allowed to revise or adjust their Technical Proposals to meet the requirements of the Purchaser. The objective of the exercise is to ensure that all Technical Proposals conform to the same acceptable technical standard and meet the technical solution required by the Purchaser. Bids of Bidders who are unable or unwilling to bring their bids to conform to the acceptable technical standard may be rejected as deficient bids with the approval of the ADB. After the evaluation of Technical Proposals has been approved by the ADB, the second stage is to invite Bidders to submit Price Proposals and Revised Technical Proposals in compliance with the acceptable technical standard. The Revised Technical Proposals and Price Proposals are opened in public at an address, date and time advised by the Purchaser. In setting the date the Purchaser will allow sufficient time for Bidders to incorporate the changes in the Revised Technical Proposals that are needed to meet the agreed technical standard and to prepare Price Proposals. The Price Proposals and Revised Technical Proposals are evaluated, and following approval by the ADB, the Contract is awarded to the Bidder whose Bid has been determined to be the lowest evaluated substantially responsive Bid.

## Invitation for Bids

The Invitation for Bids (IFB) provides information that enables potential Bidders to decide whether to participate. Apart from the essential items listed in the Standard Bidding Document (SBD), the IFB should also indicate any important bid evaluation criteria (for example, the application of a margin of preference in bid evaluation) or qualification requirement (for example, a requirement for a minimum level of experience in manufacturing or supplying a similar type of goods for which the IFB is issued).

The IFB is not a part of the Bidding Document and therefore it shall not be included in the BD.

The IFB shall be advertised in the ADB's "ADB Business Opportunities" as well as in a newspaper of general circulation in the borrower's country (at least one English language newspaper if available). A copy of the IFB shall be submitted to ADB for approval and for publication in the "ADB Business Opportunities" in accordance with the provisions of the Loan Agreement.

For large or specialized contracts, ADB may additionally require that the IFB be advertised in well-known technical magazines or trade publications, or in newspapers of wide international circulation, in sufficient time to enable prospective Bidders to prepare and submit Bids.

# Standard Format for Invitation for Bids

[Date]  
[Loan No. and Title]  
[Contract No. and Title]

1. This Invitation for Bids follows the General Procurement Notice for this project that appeared in the “ADB Business Opportunities”, issue no. [insert number] of [insert date].<sup>1</sup>
2. The [insert name of borrower] [has received/has applied for/intends to apply for] a loan from the Asian Development Bank (ADB) toward the cost of [insert name of Project], and it intends to apply part of the proceeds of this loan to payments under the contract for [insert name/no. of contract].<sup>2</sup>
3. The [insert name of Purchaser] now invites sealed Bids from eligible Bidders for [insert description of goods and related services to be procured].<sup>3,4</sup>
4. International competitive bidding will be conducted in accordance with ADB's [insert appropriate bidding procedure]<sup>5</sup> procedure and is open to all Bidders from eligible source countries.<sup>6</sup>
5. Interested eligible Bidders may obtain further information from [insert name of Purchaser] and inspect the Bidding Document at the address given below, [insert address at end of document] from [insert office hours].<sup>7</sup>
6. The Bidding Document, in the English language, may be purchased by interested Bidders on the submission of a written application to the address below [state address at the end of document] and upon payment of a nonrefundable fee<sup>8</sup> [insert amount in local currency] or in [insert amount in specified convertible currency]. The method of payment will be [insert method of payment].<sup>9</sup> The document will be sent by [insert delivery procedure].<sup>10</sup> No liability will be accepted for loss or late delivery.
7. Bids must be delivered to the address below [state address at the end of document] at or before [insert time and date]. All Bids must be accompanied by a Bid Security of [insert amount in local currency or an equivalent amount in a freely convertible currency].<sup>11</sup> Late bids shall be rejected. Bids will be opened in the presence of the Bidders' representatives who choose to attend at the address below [state address at end of document] at [insert time and date].<sup>12</sup>

8. The **[insert name of Purchaser]** will not be responsible for any costs or expenses incurred by Bidders in connection with the preparation or delivery of Bids.
9. In the comparison of Bids, ADB's Domestic Preference Scheme will be applied in accordance with the provisions stipulated in the Instructions to Bidders.<sup>13</sup>

**[Insert name of office]**  
**[Insert name of officer]**  
**[Insert postal address] and/or [Insert street address]**  
**[Insert telephone number, indicate country and city code]**  
**[Insert facsimile or cable number]**

**Notes:**

1. *Day, month, year; for example, 31 January 2001.*
2. *Insert if applicable: "This contract will be jointly financed by [insert name of cofinancing agency]. The eligibility rules and procedures of the ADB will govern the bidding process."*
3. *A brief description of the type of Goods and Related Services should be provided, including quantities, location of project, and other information necessary to enable potential bidders to decide whether to respond to the invitation. A Bidding Document may require bidders to have specific experience or capabilities; such restrictions should also be included in this paragraph.*
4. *[Insert if applicable]. The delivery/completion period is [insert no. of days/months/years or dates].*
5. *Insert one of the bidding procedures adopted by ADB, which are (a) Single-Stage: One-Envelope, (b) Single-Stage: Two-Envelope, (c) Two-Stage: Two-Envelope, and (d) Two-Stage*
6. *Occasionally, contracts may be financed out of special funds that would further restrict eligibility to a particular group of member countries. When this is the case, it should be mentioned in this paragraph. Also indicate any margin of preference that may be granted as specified in the Loan Agreement and set forth in the Bidding Document.*
7. *For example: 09:00 to 12:00 hours.*
8. *The fee, to defray printing and mailing/shipping costs, should be nominal.*
9. *For example, cashier's check, direct deposit to specified account no., etc.*
10. *The delivery procedure is usually airmail for overseas delivery and surface mail or courier for local delivery. If urgency or security dictates, courier services may be required for overseas delivery.*
11. *The amount of bid security should be stated as a fixed amount or as a minimum percentage (approximately 2%) of the bid price. Alternatively, if a bid security is not required (often the case in small value purchases), the paragraph should so state.*
12. *The place for bid opening may not necessarily be the same as that for issuance of documents or for bid submission. If they differ, each address must appear at the end of paragraph 7 and be numbered; as, for example, (1), (2), (3). The text in the paragraph would then refer to address (1), (2), etc. Only one place and its address may be specified for submission, and it should be near the place where bids will be opened.*
13. *Include only if Domestic Preference has been provided in the Loan Agreement and is included in the Instructions to Bidders.*



## Section I. Instructions to Bidders

The Instructions to Bidders (ITB) specify the procedures that regulate the bidding process. The ITB contain standard provisions that have been designed to remain unchanged and **to be used without modifying their text**. The ITB clearly identify the provisions that may need to be specified for a particular bidding process and require that such specification be introduced **through the BDS**.

The Instructions to Bidders are not a Contract document and, therefore, **are not a part of the Contract**.



# Section I. Instructions to Bidders

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## **A. General**

- 1. Scope of Bid**

  - 1.1 The Purchaser 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. The name, identification, and number of lots of the International Competitive Bidding (ICB) 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.
- 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 party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed activities if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an ADB-financed contract; and

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 Conditions of Contract.

- 4. Eligible Bidders**
- 4.1 A Bidder may be a natural person, private entity, government-owned entity (subject to ITB 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 Bank-financed activity), as well as bidders, suppliers, and contractors under Bank-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 Bidder that is under a declaration of ineligibility by the ADB in accordance with ITB 3, at the date of the deadline for bid submission or thereafter, shall be disqualified.
- 4.5 Government-owned enterprises in the Purchaser's country shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under the principles of commercial law, and (iii) are not dependent agencies 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, transportation, installation, commissioning, 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.

## **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 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 Conditions of Contract and Contract Forms**
- 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 8 and 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 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 the following:
- (a) Bid Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
  - (b) Bid Security or Bid-Securing Declaration, in accordance with ITB 21, if required;
  - (c) alternative bids, if permissible, in accordance with ITB 13;
  - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 22;
  - (e) documentary evidence in accordance with ITB 16 establishing the Bidder's eligibility to bid;
  - (f) documentary evidence in accordance with ITB 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 31, that the Goods and Related Services conform to the Bidding Document;
  - (h) documentary evidence in accordance with ITB 19 establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
  - (i) any other document required in the **BDS**.
- 12. Bid Submission Sheet and Price Schedules**
- 12.1 The Bidder shall submit the Bid Submission Sheet using the form furnished in Section IV, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 12.2 The Bidder shall submit 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 Bid 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 32.3

- 14.3 The price to be quoted in the Bid Submission Sheet shall be the total price of the Bid excluding any discounts offered.
- 14.4 The Bidder shall quote any unconditional discounts and the methodology for their application in the Bid 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 shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The disaggregation of price components is required 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 whenever such Related Services are specified in the Schedule of Requirements:
    - (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 31. 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 pursuant to ITB 1.1, Bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the **BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction for the award of more than one Contract shall specify the applicable price reductions in accordance with ITB 14.4, provided the bids 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 Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB 4, 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 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 the Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services, in accordance with ITB 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 Bid the documentary evidence that the Goods and Related Services conform to the requirements specified in Section VI, Supply Requirements.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item-by-item 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 Section VI, 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 Section VI, Schedule of Supply.
- 19. Documents Establishing the Qualifications of the Bidder**
- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the Purchaser's satisfaction that the Bidder meets each of the qualification criterion 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

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 If a bid security is specified pursuant to ITB 21.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option:

- (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 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 21.2, any Bid not accompanied by a substantially compliant Bid Security in accordance with ITB 21.3, shall be rejected by the Purchaser as non-responsive.

21.5 If a Bid Security is specified pursuant to ITB 21.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder furnishing of the signed Contract Agreement and the Performance Security pursuant to ITB 44.

21.6 If a Bid Security is specified pursuant to ITB 21.1, the Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract Agreement 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 specified by the Bidder on the Bid Submission Sheet, except as provided in ITB 20.2; or
- (b) if the successful Bidder fails to:

- (i) sign the Contract in accordance with ITB 43;
- (ii) furnish a Performance Security in accordance with ITB 44; or
- (iii) accept the arithmetical correction in accordance with ITB 33.

21.8 The Bid Security or the Bid-Securing Declaration 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 or the Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent mentioned in ITB 16.1.

## 22. Format and Signing of Bid

- 22.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB 11 and clearly mark it “ORIGINAL.” In addition, the Bidder shall submit copies of the Bid, in the number specified in the **BDS** and clearly mark them “COPY.” 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.
- 22.3 Any amendments such as interlineation, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the Bid.

### D. Submission and Opening of Bids

## 23. Sealing and Marking of Bids

- 23.1 Bidders may always submit their bids by mail or by hand. When so specified in the **BDS**, Bidders have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the **BDS**.
- 23.2 Bidders submitting bids by mail or by hand shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB 13, in separate sealed envelopes, duly marking the envelopes as “ORIGINAL”, “ALTERNATIVE” and “COPY.” These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.3 and 23.4.
- 23.3 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 24.1;
  - (c) bear the specific identification of this bidding process pursuant to ITB 1.1 and any additional identification marks as specified in the **BDS**; and
  - (d) bear a warning not to open before the time and date for bid

opening, in accordance with ITB 27.1.

23.4 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.

**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 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 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, and Modification of Bids**

26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written Notice, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB 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 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 24.

26.2 Bids requested to be withdrawn in accordance with ITB 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 by the Bidder on the Bid Submission Sheet or any extension thereof.

**27. Bid Opening**

27.1 The Purchaser shall conduct the bid opening in public at the address, date and time specified in the **BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 23.1, shall be as specified in the **BDS**.

27.2 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. If the withdrawal notice is

not accompanied by a copy of the valid authorization pursuant to ITB 22.2, the withdrawal shall not be permitted and the corresponding Bid will be opened. Next, envelopes marked "SUBSTITUTION" shall be opened, read out, recorded, and exchanged for the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid 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. Envelopes marked "MODIFICATION" shall be opened, read out, and recorded with the corresponding Bid. No Bid shall be modified unless the corresponding Modification Notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out, and recorded at bid opening shall be considered further.

- 27.3 All other envelopes shall be opened one at a time, and the following read out and recorded: the name of the Bidder and whether there is a modification; the Bid Prices (per lot if applicable), any discounts and alternative offers; the presence of a Bid Security, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out and recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at bid opening except for late bids, in accordance with ITB 25.1.
- 27.4 The Purchaser shall prepare a record of the bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, any discounts and alternative offers if they were permitted; and the presence or absence of a Bid Security or Bid-Securing Declaration, 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 who submitted bids in time, and posted on line if electronic bidding was permitted. The Bidders' representatives who are present shall also be requested to sign the attendance sheet.

### **E. Evaluation and Comparison of Bids**

- 28. Confidentiality**
- 28.1 Information relating to the examination, evaluation, comparison, and postqualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until publication of the Contract award; thereafter, information will be disclosed in accordance with ITB 42.3..
- 28.2 Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB 28.2, from the time of bid opening 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 with regard to its Bid and 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 Bids, in accordance with ITB 33.
- 30. Deviations, Reservations, and Omissions** 30.1 During the evaluation of bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;
  - (b) "Reservation" is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and
  - (c) "Omission" is the failure to submit part or all of the information or documentation required in the Bidding Document.
- 31. Determination of Responsiveness** 31.1 The Purchaser's determination of the responsiveness of a Bid is to be based on the contents of the Bid itself, as defined in ITB 11.
- 31.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,
- (a) if accepted, would:
    - (i) affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in Section VI, Schedule of Supply; or
    - (ii) limits in any substantial way, inconsistent with the Bidding Document, the Purchaser's rights or the Bidder's obligations under the proposed Contract; or
  - (b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.
- 31.3 The Purchaser shall examine the technical aspects of the bid in particular, to confirm that all requirements of Section VI, Schedule of Supply have been met without any material deviation or reservation.
- 32. Nonmaterial Nonconformities** 32.1 Provided that a Bid is substantially responsive, the Purchaser may waive any nonconformities in the bid that do not constitute a material deviation, reservation or omission.
- 32.2 Provided that a Bid 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 Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

- 32.3 Provided that a Bid is substantially responsive, the Purchaser shall rectify nonmaterial nonconformities or omissions. To this effect, the Bid Price shall be adjusted, 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.
- 33. Correction of Arithmetical Errors**
- 33.1 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors 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.
- 33.2 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected and its bid security may be rejected
- 34. Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the currency(ies) of the bid shall be converted into a single currency as specified in the **BDS**.
- 35. Margin of Preference**
- 35.1 Unless otherwise specified in the **BDS**, no margin of preference shall apply.
- 36. Evaluation of Bids**
- 36.1 The Purchaser shall evaluate each Bid that has been determined, up to this stage of the evaluation, to be substantially responsive.
- 36.2 To evaluate a Bid, 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 Bid, the Purchaser shall consider the following:
- (a) the bid price as quoted in accordance with ITB 14;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB 33.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 14.4; and
  - (d) price adjustment due to application of the evaluation criteria specified in Section III, Evaluation and Qualification Criteria. These criteria may include factors related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services which shall be expressed to the extent practicable in monetary terms to facilitate comparison of bids unless otherwise specified in Section III.
- 36.4 The Purchaser's evaluation of a bid will exclude and not take into account:
- (a) in the case of Goods 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 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.
- 37. Comparison of Bids** 37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB 36.
- 38. Post-qualification of the Bidder** 38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is 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 19.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

- 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 is determined to be qualified to perform the Contract 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.
- 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 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 Contract Agreement and the Special Conditions of Contract.
- 43.2 Within twenty-eight (28) days of receipt of the Contract 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 Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security or execution of the Bid-Securing Declaration. 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.

## Section II. Bid Data Sheet

The Bid Data Sheet (BDS) contains information and provisions that are specific to a particular bidding process. The Purchaser must specify in the BDS only the information that the ITB request be specified in the BDS. All information shall be provided, **no clause shall be left blank**.

To facilitate the preparation of the BDS, its clauses are numbered with the same numbers as the corresponding ITB clauses. This Guide provides information to the Purchaser on how to enter all required information, and includes a BDS format that summarizes all information to be provided.



<b>Input of Information to be completed by Purchaser</b>
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## Bid Data Sheet

<b>A. Introduction</b>	
<b>ITB 1.1</b>	The Purchaser is:
<b>ITB 1.1</b>	The name of the ICB is:  The identification number of the ICB is:  The number and identification of lots comprising this ICB is:
<b>ITB 2.1</b>	The Borrower is:
<b>ITB 2.1</b>	The name of the Project is:
<b>B. Bidding Documents</b>	
<b>ITB 7.1</b>	For <b>clarification purposes</b> only, the Purchaser's address is:  Attention:  Street Address:  Floor/Room number:  City:  ZIP Code:  Country:  Telephone:  Facsimile number:  Electronic mail address:
<b>C. Preparation of Bids</b>	
<b>ITB 10.1</b>	The language of the Bid is:

<b>ITB 11.1 (i)</b>	The Bidder shall submit the following additional documents with its Bid:
<b>ITB 13.1</b>	Alternative Bids . . . . permitted  [If alternative bids are permitted, insert: “Bidders may submit Alternative Bids which do not conform to the specifications of Goods but meet the performance prescribed in, or the objectives of, the specifications. However, only the Alternative Bids of the Bidder whose main Bid is the lowest evaluated substantially responsive Bid will be considered. If a Bidder wishes to have its Alternative Bid or Bids considered on an equal basis with all other main Bids, it shall submit a separate Bid Security for each Alternative Bid. All Alternative Bids submitted in this manner will be treated as main Bids. Alternative Bids must be submitted in a sealed envelope clearly marked “Alternative Bid”, separate from the main Bid.”]
<b>ITB 14.5</b>	The Incoterms edition is:
<b>ITB 14.6 (b) (i)</b>	For Goods offered from outside the Purchaser's country, the Bidder shall quote prices using the following Incoterms:
<b>ITB 14.6 (b) (ii)</b>	In addition to the above, the Bidder shall quote prices for Goods offered from outside the Purchaser's country using the following Incoterms:  [Only if the Purchaser wishes to reserve transportation and insurance to domestic companies or other designated sources, insert: “FOB (... <i>named port of shipment</i> )” if CIF was specified under ITB 14.6(b)(i) above or “FCA (... <i>named place</i> )” if CIP was specified under ITB 14.6(b)(i) above. However, identification of the lowest evaluated bid must be on the basis of the CIF or CIP price, but the Purchaser may sign the contract on FOB or FCA terms and make its own arrangement for transportation and/or insurance. ]
<b>ITB 14.7</b>	The prices quoted by the Bidder shall be:  [If prices are to be adjustable, insert: “The formula for adjusting the prices and explanatory details are specified in the SCC Clause 15.2.”]
<b>ITB 14.8</b>	Prices quoted for each lot shall correspond at least to ____ % of the items specified for each lot.  Prices quoted for each item of a lot shall correspond at least to ____ % of the quantities specified for this item of a lot.
<b>ITB 19.2</b>	The Bidder _____ required to include with its bid, the Manufacturer's Authorization.
<b>ITB 19.3</b>	The Bidder _____ required to include with its bid, evidence that it will be represented by an Agent in the country.

<b>ITB 20.1</b>	<p>The bid validity period shall be _____ days.</p> <p><b>[The period should be sufficient to permit completion of evaluation and comparison of Bids, review of the recommended selection by the ADB (if so required), acquire all necessary approvals, and notify the successful Bidder of the award. Normally, the validity period should be 90 days. For procurement of commodities, validity could, in appropriate cases, be shorter. A realistic period should be specified.]</b></p>
<b>ITB 21.1</b>	<p>A Bid Security _____ required.</p> <p>Bid-Securing Declaration _____ required.</p> <p>If a bid security shall be required, the amount and currency of the bid security shall be :</p> <p><b>Alternative 1: [state a fixed amount in local currency or an equivalent amount in a freely convertible currency which should be approximately two percent (2%) of the estimated cost of the Contract.]</b></p> <p><b>Alternative 2: [insert: “Not less than two percent (2%) of the Total Bid Price. The Bid Security shall be denominated in the currency of the Bid or another freely convertible currency.”]</b></p> <p><b>[Alternative 1 is considered best practice and its use is preferred. For small value purchases, a Bid Security is not essential.]</b></p>
<b>ITB 22.1</b>	<p>In addition to the original of the Bid, the number of copies is:</p>
<b>ITB 22.2</b>	<p>The written confirmation of Authorization to sign on behalf of the Bidder shall consist of:</p>
<b>D. Submission and Opening of Bids</b>	
<b>ITB 23.1</b>	<p>Bidders _____ the option of submitting their bids electronically.</p> <p>If bidders submit their bids electronically, the electronic bidding submission procedures shall be:</p>
<b>ITB 23.3 (c)</b>	<p>The additional identification marks are:</p>

<b>ITB 24.1</b>	<p>For <b>bid submission purposes</b> only, the Purchaser's address is :</p> <p>Attention:</p> <p>Street Address:</p> <p>Floor/Room number:</p> <p>City:</p> <p>ZIP Code:</p> <p>Country: _____</p>
<b>ITB 24.1</b>	<p><b>The deadline for bid submission is:</b></p> <p>Date:</p> <p>Time:</p>
<b>ITB 27.1</b>	<p><b>The bid opening shall take place at:</b></p> <p>Street Address:</p> <p>Floor/Room number:</p> <p>City :</p> <p>Country:</p> <p>Date:</p> <p>Time: _____</p>
<b>ITB 27.1</b>	<p>If electronic bid submission is permitted in accordance with ITB 23.1, the specific bid opening procedures shall be::</p>
<b>E. Evaluation and Comparison of Bids</b>	
<b>ITB 34.1</b>	<p>Bid prices quoted in different currencies shall be converted into:</p> <p>The source of exchange rate shall be:</p> <p>The date for the exchange rate shall be:</p> <p><b>Alternative 1: [specify any date (day/month/year) not earlier than 30 days prior to the deadline for submission of the Bids, nor later than the original date for the expiry of bid validity.]</b></p>

	Alternative 2: [insert: “The date of taking the decision to award the Contract, but not later than the original date for the expiry of the bid validity, prescribed under Clause 20.1, if the decision is taken beyond such date”.]
<b>ITB 35.1</b>	A margin of preference _____ apply.  [If a margin of preference applies insert “ The application methodology shall be as stipulated in Section III, Evaluation and Qualification Criteria.”].
<b>F. Award of Contract</b>	
<b>ITB 41.1</b>	The maximum percentage by which quantities may be increased is:  The maximum percentage by which quantities may be decreased is:



## **Section III. Evaluation and Qualification Criteria**

The purpose of the Evaluation and Qualification Criteria (EQC) is to specify the criteria that the Purchaser will use to evaluate the Bids and postqualify the lowest-evaluated Bidder. The Purchaser must prepare the EQC and include it as a part of the Bidding Document. The EQC is not a Contract document and, therefore, it is not a part of the Contract.

## Evaluation Criteria

### 1. Scope

#### 1.1 Local Handling and Inland Transportation

If the Purchaser wishes to consider during bid evaluation the costs for inland transportation, insurance, and other services within the Purchaser's country incidental to delivery of the goods to their final destination, then

- (a) the Purchaser must define these service items in Section VI, Schedule of Supply, List of Goods and Related Services; and
- (b) Bidders must be required to quote for these service items as part of their bid price in the PRICE SCHEDULE FOR RELATED SERVICES TO BE OFFERED FROM OUTSIDE AND WITHIN THE PURCHASER'S COUNTRY provided in Section IV, Bidding Forms.

In such case, the following provision should be used:

**[Insert: "Costs for inland transportation, insurance, and other incidental costs for delivery of the goods from the EXW premises, or port of entry, or border point to Project Site as defined in Section VI, Schedule of Supply, shall be quoted in the PRICE SCHEDULE FOR RELATED SERVICES TO BE OFFERED FROM OUTSIDE AND WITHIN THE PURCHASER'S COUNTRY provided in Section IV, Bidding Forms. These costs will be taken into account during bid evaluation. If a Bidder fails to include such costs in its Bid, then these costs will be estimated by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, or other appropriate sources, and added to EXW or CIF or CIP price."]**

#### 1.2 Minor Omissions or Missing Items

The cost of minor omissions or missing items in the scope of supply, services, etc. should be added to the Bid Price to allow for Bid comparison on an equal basis. The price adjustment should be based on a reasonable estimate of the cost by the executing agency, engineer, consultant or bid evaluation committee, taking into consideration the corresponding quoted prices from other conforming Bids. The price adjustment should be based on the fair price of the omitted item. The most frequently used methods assign to the missing item a price:

- (i) equal to the highest price quoted for the same item by the other Bidders; or
- (ii) equal to the average price quoted for the same item by the other Bidders; or
- (iii) estimated by the Purchaser.

Of these three methods the Purchaser should preferably use (i) or (ii), as Bidders frequently challenge (iii) because of its lack of transparency.

**[Insert: “Pursuant to Sub-Clause 31.3 of the Instructions to Bidders, the cost of all quantifiable nonmaterial nonconformities or omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids.”]**

## 2. Multiple Contracts

If Goods and Related Services are grouped in multiple lots, the following provision must be used:

**[Insert: “Goods are grouped in lots. The Purchaser will evaluate and compare Bids on the basis of a lot, or a combination of lots, or as a total of lots in order to arrive at the least cost combination for the Purchaser by taking into account discounts offered by Bidders in case of award of multiple contracts.”]**

## 3. Technical Criteria

These criteria should specify the minimum technical level that the Goods and Related Services shall have in order to comply with the Section VI, Schedule of Supply. Whenever possible, these criteria should be evaluated on a pass-fail system, with a minimum acceptable level for each criteria enumerated.

However, a minor deficiency in technical compliance may not be cause for rejection of the Bid. An example of such non-substantive deficiency is the case of an auxiliary motor of which the power rating falls short of that specified, or a proposal to supply cross-ply tires for a vehicle instead of radial-ply as specified. The cost of making good any deficiency should likewise be added to the Bid Price concerned. The most frequently used methods assign to the non-conforming items or components, prices based on similar methods described above under Scope, with the price of the non-conforming items or components deducted.

**[Insert: “The cost of all quantifiable deviations or deficiencies from the technical requirements as specified in Section VI, Schedule of Supply shall be evaluated. The Purchaser will make its own assessment of the cost of these deviations or deficiencies for the purpose of ensuring fair comparison of Bids”]**

## 4. Economic Criteria

The economic criteria are most important when evaluating a Bid. In most cases, they are the only criteria for evaluating Bids that have passed the technical evaluation. Price, however, may not be the only criterion, as there could be other criteria that may be expressed in monetary terms. For energy consuming equipment and facilities, adjustment for efficiency over and above the minimum functional guarantees specified in the specifications (e.g. generators, pumps), losses (e.g.

transformers), and future operating costs of the equipment may be taken into account in the determination of the evaluated Bid Price. The financial cost for these adjustments (added to or deducted from the Bid Price as the case may be) shall be made only when it is specified in the Bidding Document that these functional guarantees and projected operating costs are factors in bid evaluation. The methods of calculation for these evaluation factors shall be clearly specified in the Bidding Document. Deviations from the specified manner of cost calculation shall not be introduced.

Examples of such criteria appear below:

#### **4.1 Adjustment for Deviations from the Terms of Payment**

The Purchaser must state here whether deviations from the terms of payment as specified in Special Conditions of Contract, Sub-Clause 16.1, are permitted or not. If permitted, the Purchaser shall evaluate deviations from the terms of payment in the following manner. The Purchaser shall first evaluate the Bids based on the terms of payment specified in the Special Conditions of Contract, Clause 16.1. The Purchaser shall then add an adjustment to the Bid Price to take into account the differences in cash flows. The adjustment shall be calculated as the discounted cash flow of the incremental payments of the alternative compared with those of the terms of payment specified by the Purchaser.

**[Alternative 1. Insert: “Deviations from the Terms of Payment as specified in Special Conditions of Contract, Sub-Clause 16.1, are not permitted.”]**

**[Alternative 2. Insert: “Bids offering payment terms which differ from those specified in the Special Conditions of Contract, Sub-Clause 16.1 will be accepted but the Bids will be adjusted in the evaluation by adding the cost of the interest involved at the rate of (... *specify commercial rate applicable*).”]**

#### **4.2 Adjustment for Deviations in the Delivery and Completion Schedule**

Bidders are required to base their prices on the Delivery and Completion Schedule specified in Section VI, Schedule of Supply. The Purchaser must state here whether deviations from the specified Delivery and Completion Schedule are permitted or not. If permitted, the Purchaser shall evaluate deliveries by adding the corresponding price adjustment in accordance with the procedure outlined below.

**[Alternative 1. Insert: “Deviations from the Delivery and Completion Schedule specified in Section VI, Schedule of Supply, are not permitted.”]**

**[Alternative 2. Insert: “The Goods covered by this bidding process are required to be delivered in accordance with, and completed within, the Delivery and Completion Schedule specified in Section VI, Schedule of Supply. No credit will be given for earlier completion. Bids offering late contract performance schedules will be accepted but the Bids shall be adjusted in the evaluation by adding to the Bid Price at the rate of (... *specify percentage*) of the Bid Price for each day of delay. Bids offering delivery schedules beyond (... *specify time limit*) of the date specified in Section VI, Schedule of Supply, shall be rejected.”]**

### 4.3 Operating and Maintenance Costs

The Operating and Maintenance costs (O&M) need to be taken into account for bid evaluation purposes when such costs over the life cycle of the Goods represent an important cost in relation to the capital or investment cost of the Goods. Different technologies may involve large variations in the capital costs of the Goods and the costs associated with their O&M. Normally, more elaborate technologies and materials used in the manufacturing of the Goods involve higher investment costs and lower O&M costs. O&M costs are evaluated at their present value over the life cycle of the Goods and then added to the price of the Goods.

Typical O&M cost factors for calculation are:

- (a) Number of years for initial period of operation. It is recommended that the initial period of operation does not exceed the usual period before a major overhaul of the Goods is required, usually between five and ten years. The load or working cycle (hourly, daily, monthly, seasonal) of the Goods shall be as specified by the Purchaser).
- (b) Operating costs such as fuel, electricity, spare parts, labour and/or other inputs required for the operation of the Goods.
- (c) Rate, in percent, to be used to discount to present value, all of the annual future costs calculated under (b) above for the period specified in (a).

**[Insert procedures to be used]**

### 4.4 Spare Parts

Only those spare parts and tools which are specified on an item-wise basis in the List of Goods and Related Services in Section VI, Schedule of Supply, shall be taken into account in the bid evaluation. Supplier-recommended spare parts for a specified operating requirement shall not be considered in bid evaluation.

**[Insert: “The list of items and quantities of (... specify spare parts, tools, major assemblies, and selected components), likely to be required during the initial period (... specify period) of operation is indicated in Section VI, Schedule of Supply. The total cost of these items at the unit prices quoted in each Bid shall be added to the Bid Price.”]**

### 4.5 Performance and Productivity of the Goods

The adjustment factor for the performance or productivity of the Goods shall be calculated based on the difference between the reference value or norm (i.e. the efficiency) as specified in Section VI, Schedule of Supply, and the corresponding value guaranteed by the Bidder in its Bid. The method of calculation shall be the following:

**[Insert detailed description of the methodology]**

## 5. Margin of Preference

The borrower may, with the agreement of ADB, grant a margin of preference in the evaluation of bids under international competitive bidding (ICB) procedures to bids offering certain goods manufactured in the country of the borrower, when compared to bids offering such goods manufactured elsewhere. The nationality of the manufacturer or supplier is not a condition for such eligibility. The methods and stages set forth hereunder shall be followed in the evaluation and comparison of bids. Insert **one** of the following adjustment methods as stipulated in the Loan Agreement. For land-locked countries requiring multimodal transportation CIP (...point of entry) should be used instead of CIF (...port of destination).

### 5.1 Method A

1. **For comparison, responsive bids shall be classified in one of the following three groups:**
  - (a) **Group A: bids exclusively offering goods manufactured in the country of the borrower if the bidder establishes to the satisfaction of the borrower and ADB that (i) labor, raw material, and component from within the country of the borrower will account for 30 percent or more of the EXW price of the product offered, and (ii) the production facility in which those goods will be manufactured or assembled has been engaged in manufacturing/ assembling such goods at least since the time of bid submission.**
  - (b) **Group B: all other bids offering goods manufactured in the country of the borrower.**
  - (c) **Group C: bids offering goods manufactured abroad that have been already imported or that will be directly imported.**
2. **The price quoted for goods in bids of groups A and B shall include all duties and taxes paid or payable on the basic materials or component purchased in the domestic market or imported, but shall exclude the sales and similar taxes on the finished product. The price quoted for goods in bids of group C shall be on CIF or CIP (place of destination), which is exclusive of customs duties and other import taxes already paid or to be paid.**
3. **In the first step, all evaluated bids in each group shall be compared to determine the lowest bid in each group. Such lowest evaluated bids shall be compared with each other and if, as a result of this comparison, a bid from group A or group B is the lowest, it shall be selected for the award.**
4. **If as a result of the comparison under paragraph four above, the lowest evaluated bid is a bid from group C, the lowest evaluated bid from group C shall be further compared with the lowest evaluated bid from group A after adding to the evaluated price of goods offered in the bid from group C, for the purpose of this further comparison only, an amount equal to 15 percent of the CIF or CIP bid price. The lowest evaluated bid determined from this last comparison shall be selected.**

## 5.2 Method B

1. In supply, delivery and installation contracts in which there are a number of items of Goods and Related Services, a margin of preference shall be granted to eligible domestically produced Goods in accordance with the following provisions.
  - (a) The preference margin shall not be applied to the whole package but only to the eligible domestically produced Goods within the package;
  - (b) Goods offered from outside the Purchaser's country shall be quoted CIF or CIP and Goods offered locally shall be quoted EXW (ex-works free of sales and similar taxes);
  - (c) all other cost components for services and works such as costs for local handling, transportation, storage, installation, and commissioning shall be quoted separately;
  - (d) in the comparison of Bids, only the CIF or CIP price in each Bid of the Goods offered from outside the Purchaser's country shall be increased by fifteen percent (15%);
  - (e) no margin of preference shall be applied to any associated services or works included in the package; and
  - (f) Bidders shall not be permitted or required to modify the mix of local and foreign Goods after bid opening.

## Qualification Criteria

For the procurement of ordinary, readily available, off-the-shelf items, a thorough checking of the qualification of the bidders may not be necessary, apart from ensuring that the technical specifications are met, and that the equipment or machinery has been sufficiently tested in practical terms.

If there is a need to ensure that the lowest-evaluated Bidder has the necessary qualifications to successfully fulfill its obligations under the contract, as the case may be for the procurement of expensive and technically complex items of plant, equipment and machinery for which a separate prequalification exercise was not considered feasible, the Purchaser may specify appropriate qualification criteria in this section.

Depending on the nature of the procurement, taking money and time at risk into account, Bidders' qualifications regarding critical aspects of their financial, technical, production, procurement, shipping, installation and other capabilities necessary to perform the contract may need to be examined. It will be necessary to seek only information essential to determine the Bidder's capabilities to execute the contract satisfactorily. All these criteria shall be evaluated on a pass/fail basis only. Minimum acceptable levels with regard to Bidders' experience in supplying goods and related services with comparable technical parameters, its manufacturing and installation capacity, its financial capability and other factors must be defined.

The following criteria may be used individually or in combination to establish one or several critical qualifications of the Bidder:

### **Size of Operation**

Average annual turnover (converted into US Dollars) defined as the total payments received by the Bidder for contracts completed or under execution over the last three years.

### **Contractual Experience**

Number of contracts successfully completed as main supplier within the last three years. Value, nature, and complexity of these contracts should be comparable to the contract to be let.

### **Technical Experience**

Goods offered have been in production for at least [*number*] years and a minimum of [*number*] units of similar capacity have been sold and have been in operation satisfactorily for at least [*number*] years.

### **Production Capacity**

Minimum supply and/or production capacity required to assure that the Bidder is capable of supplying the type, size, and quantity of the Goods required.

### **Financial Position**

Soundness of the Bidder's financial position showing long-term profitability demonstrated through audited annual financial statements (balance sheet, income statement) for the last three years.

### **Cashflow Capacity**

Availability of or access to liquid assets, lines of credit, and other finances sufficient to meet any possible cash flow requirement which may arise during the execution of the contract. This should in appropriate cases also take into account the Bidder's commitments for other contracts.

### **Litigation History**

All pending claims, arbitration, or other litigation shall represent in total not more than [percent] of the Bidder's net worth.

## Section IV. Bidding Forms

The Purchaser shall include in the BD all bidding forms that the Bidder must complete and include in its Bid. As specified in Section IV of the BD, these forms are:

- the Bid Submission Sheets for four bidding procedures adopted by ADB;
- the Price Schedules;
- the Bid Security; and
- the Manufacturing Authorization, when applicable.

This Guide helps the Purchaser and Bidder fill in all the required information in each Bidding Form.

## Bid Submission Sheets

The Purchaser must select one of the four bidding procedures adopted by ADB to suit the nature of the particular procurement. The four bidding procedures and their corresponding Bid Submission Sheets are:

- (a) Single-Stage: One-Envelope Bidding Procedure**
  - Bid Submission Sheet
  
- (b) Single-Stage: Two-Envelope Bidding Procedure**
  - Technical Proposal Submission Sheet
  - Price Proposal Submission Sheet
  
- (c) Two-Stage: Two-Envelope Bidding Procedure**
  - Technical Proposal Submission Sheet
  - Price Proposal Submission Sheet
  - Modified Bid Proposal Submission Sheet
  
- (d) Two-Stage Bidding Procedure**
  - Technical Proposal Submission Sheet
  - Price Proposal and Revised Technical Proposal Submission Sheet

<b>To be used for Single-Stage: One-Envelope Bidding Procedure</b>
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<b>Input of Information to be completed by Bidder</b>
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## Bid Submission Sheet

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

ICB No.: \_\_\_\_\_

Invitation for Bid No.: \_\_\_\_\_

Alternative No.: \_\_\_\_\_

To: \_\_\_\_\_

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: ;
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Schedule of Supply, the following Goods and Related Services: \_\_\_\_\_;  
\_\_\_\_\_;
- (c) The total price of our Bid, excluding any discounts offered in item (d) below is: \_\_\_\_\_;  
\_\_\_\_\_;
- (d) The discounts offered and the methodology for their application are: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_;
- (e) Our Bid shall be valid for a period of \_\_\_\_\_ days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our Bid is accepted, we commit to obtain a Performance Security in the amount of \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract;
- (g) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries \_\_\_\_\_;
- (h) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Document;

- (i) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the ADB;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract:

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____

(If none has been paid or is to be paid, indicate "none.")

- (k) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed.
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (m) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid for and on behalf of \_\_\_\_\_

Date \_\_\_\_\_

**To be used for Single-Stage: Two-Envelope Bidding Procedure****Input of Information to be completed by Bidder****Technical Proposal Submission Sheet**

Date: [insert date (as day, month, year) of Bid Submission]  
ICB No.: [insert No. of bidding process]  
Invitation for Bid No.: [insert No. of IFB]  
Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Schedule of Supply, the following Goods and Related Services [insert a brief description of the Goods and Related Services];
- (c) Our Bid shall be valid for a period of [specify the number of calendar days] days from the date fixed for the bid submission deadline in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) If our Bid is accepted, we commit to obtain a Performance Security in the amount [specify a figure between 5 and 10 percent ] percent of the Contract Price for the due performance of the Contract;

- (e) Our firm, including any subcontractors or suppliers for any part of the Contract, has nationals from eligible countries **[insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier]**;
- (f) We are not participating, as Bidders, in more than one Bid in this bidding process, other than Alternative Bids in accordance with the Bidding Document;
- (g) Our firm, its affiliates or subsidiaries, including any Subcontractors or Suppliers for any part of the Contract, has not been declared ineligible by the ADB;
- (h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed;
- (i) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (j) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

**To be used for Single-Stage: Two-Envelope Bidding Procedure****Input of Information to be completed by Bidder****Price Proposal Submission Sheet**

Date: [insert date (as day, month, year) of Bid Submission]  
ICB No.: [insert No. of bidding process]  
Invitation for Bid No.: [insert No. of IFB]  
Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Schedule of Supply, the following Goods and Related Services [insert a brief description of the Goods and Related Services];
- (c) The total price of our Bid, excluding any discounts offered in item (d) below, is: [insert the total Bid Price in words and figures, indicating the various amounts and the respective currencies];
- (d) The discounts offered and the methodology for their application are:  
**Discounts: If our Bid is accepted, the following discounts shall apply. [Specify in detail each discount offered and the specific item of the Schedule of Supply to which it applies.]**  
**Methodology of Application of the Discounts: The discounts shall be applied using the following method: [Specify in detail the method that shall be used to apply the discounts];**

- (e) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was, or is to be, paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate “none.”]**

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (f) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed;
- (g) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (h) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

**To be used for Two-Stage: Two-Envelope Bidding Procedure****Input of Information to be completed by Bidder****Technical Proposal Submission Sheet**

Date: [insert date (as day, month, year) of Bid Submission]  
ICB No.: [insert No. of bidding process]  
Invitation for Bid No.: [insert No. of IFB]  
Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Schedule of Supply, the following Goods and Related Services [insert a brief description of the Goods and Related Services];
- (c) Our Bid shall be valid for a period of [specify the number of calendar days] days from the date fixed as deadline for the submission of Technical and Price Proposals in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (d) If our Bid is accepted, we commit to obtain a Performance Security in the amount of [specify a figure between 5 and 10 percent ] percent of the Contract Price for the due performance of the Contract;

- (e) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries **[insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier];**
- (f) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Document;
- (g) Our firm, its affiliates or subsidiaries including any subcontractors or suppliers for any part of the Contract has not been declared ineligible by the ADB;
- (h) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed;
- (i) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (j) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

**To be used for Two-Stage: Two-Envelope Bidding Procedure****Input of Information to be completed by Bidder****Price Proposal Submission Sheet**

Date: [insert date (as day, month, year) of Bid Submission]  
ICB No.: [insert No. of bidding process]  
Invitation for Bid No.: [insert No. of IFB]  
Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in the Schedule of Supply, the following Goods and Related Services [insert a brief description of the Goods and Related Services];
- (c) The total Price for our original Technical Proposal, excluding any discounts offered in item (d) below is: [insert the total Price for the original Technical Proposal in words and figures, indicating the various amounts and the respective currencies];
- (d) The discounts offered and the methodology for their application are:

**Discounts: If our Bid is accepted, the following discounts shall apply. [Specify in detail each discount offered and the specific item of the Schedule of Supply to which it applies.]**

**Methodology of Application of the Discounts: The discounts shall be applied using the following method: [Specify in detail the method that shall be used to apply the discounts];**

- (e) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was, or is to be, paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate “none.”]**

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (f) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

**To be used for Two-Stage: Two-Envelope Bidding Procedure****Input of Information to be completed by Bidder****Modified Bid Proposal Submission Sheet**

Date: [insert date (as day, month, year) of Bid Submission]  
ICB No.: [insert No. of bidding process]  
Invitation for Bid No.: [insert No. of IFB]  
Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section VI, Schedule of Supply, the following Goods and Related Services: [insert a brief description of the Goods and Related Services];
- (c) We have enclosed the requested Revised Technical Proposal and Supplementary Price Proposal incorporating the required amendments and changes agreed upon during the first stage discussions concerning the acceptable technical standards of bids;
- (d) The total Supplementary Price, excluding any discounts offered in item (f) below is: [insert the total Supplementary Price in words and figures, indicating the various amounts and the respective currencies]. The above total Supplementary Price represents only changes to the original Price Proposal resulting from the revisions to the original Technical Proposal;

- (e) Due to revisions to the original Technical Proposal, discounts offered in the original Price Proposal and the methodology for their application need to be amended as follows:

**Discounts: If our Bid is accepted, the following discounts shall apply. [Specify in detail changes required to each discount offered in the original Price Proposal and the specific item of the Schedule of Supply to which it applies. If no changes to the original discounts are needed, indicate “no amendments required.”];**

**Methodology of Application of the Discounts: The discounts shall be applied using the following method: [Specify in detail changes required to the method offered in the original Price Proposal that shall be used to apply the discounts. If no changes to the original method are needed, indicate “no amendments required.”];**

- (f) Due to the revisions to the original Technical Proposal, commissions, gratuities, or fees paid or to be paid with respect to the bidding process or execution of the Contract as indicated in the original Price Proposal need to be amended as follows: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was, or is to be, paid and the amount and currency of each such commission or gratuity. If none, indicate “no amendments required.”]**

Name of Recipient	Address	Reason	Amount
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- (g) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

**To be used for a Two-Stage Bidding Procedure****Input of Information to be completed by Bidder****Technical Proposal Submission Sheet**

Date: [insert date (as day, month, year)  
of Bid Submission]

ICB No.: [insert No. of bidding process]

Invitation for Bid No.: [insert No. of IFB]

Alternative No.: [insert identification No. if this is  
an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section VI, Schedule of Supply, the following Goods and Related Services: [insert a brief description of the Goods and Related Services];
- (c) We herewith submit a Technical Proposal without prices in compliance with the general operating and performance requirements specified in Section VI, Schedule of Supply of the Bidding Document;
- (d) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries [insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier];

- (e) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Document;
- (f) Our firm, its affiliates or subsidiaries, including any subcontractors or suppliers for any part of the Contract, has not been declared ineligible by the ADB.
- (g) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

<b>To be used for a Two-Stage Bidding Procedure</b>
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<b>Input of Information to be completed by Bidder</b>
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## Price and Revised Technical Proposal Submission Sheet

Date: [insert date (as day, month, year) of Bid Submission]

ICB No.: [insert No. of bidding process]

Invitation for Bid No.: [insert No. of IFB]

Alternative No.: [insert identification No. if this is an Alternative Bid]

To: [insert complete name of Purchaser]

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Document, including Addenda No.: [insert the number and issuing date of each Addenda];
- (b) We offer to supply in conformity with the Bidding Document and in accordance with the delivery schedule specified in Section VI, Schedule of Supply, the following Goods and Related Services: [insert a brief description of the Goods and Related Services];
- (c) We have enclosed the requested Revised Technical Proposal incorporating the required amendments and changes agreed upon during the first stage discussions concerning the acceptable technical standard of bids;
- (d) The total price of our Bid, excluding any discounts offered in item (d) below is: [insert the total Bid Price in words and figures, indicating the various amounts and the respective currencies];
- (e) The discounts offered and the methodology for their application are:  
**Discounts: If our Bid is accepted, the following discounts shall apply. [Specify in detail each discount offered and the specific item of the Schedule of Supply to which it applies.];**  
**Methodology of Application of the Discounts: The discounts shall be applied using the following method: [Specify in detail the method that shall be used to apply the discounts.];**

- (f) Our Bid shall be valid for a period of **[specify the number of calendar days]** days from the date fixed as deadline for the submission of Price and Revised Technical Proposals in accordance with the Bidding Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (g) If our Bid is accepted, we commit to obtain a Performance Security in the amount of **[specify a figure between 5 and 10 percent ]** percent of the Contract Price for the due performance of the Contract;
- (h) Our firm, including any subcontractors or suppliers for any part of the Contract, have nationalities from the following eligible countries **[insert the nationality of the Bidder, including that of all parties that comprise the Bidder if the Bidder is a consortium or association, and the nationality of each Subcontractor and Supplier];**
- (i) We are not participating, as Bidders, in more than one Bid in this bidding process, other than alternative offers in accordance with the Bidding Document;
- (j) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the Contract—has not been declared ineligible by the ADB;
- (k) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: **[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was, or is to be, paid and the amount and currency of each such commission or gratuity. If none has been paid or is to be paid, indicate “none.”]**

Name of Recipient	Address	Reason	Amount
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

- (l) We understand that this Bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal Contract is prepared and executed;
- (m) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (n) We agree to permit ADB or its representative to inspect our accounts and records and other documents relating to the bid submission and to have them audited by auditors appointed by the Bank.

Name: **[insert complete name of person signing the Bid]**

In the capacity of **[insert legal capacity of person signing the Bid]**

Signed: **[insert signature of person whose name and capacity are shown above]**

Duly authorized to sign the Bid for and on behalf of: **[insert complete name of Bidder]**

Dated: **[insert date of signing]**

## Price Schedules

The Bidder shall complete and submit with its Bid the Price Schedules pursuant to ITB Clause 12 and in accordance with Part 2, Supply Requirements, Section VI, Schedule of Supply. The list of items in column 1 of the Price Schedules shall coincide with the List of Goods and Related Services specified by the Purchaser in the Schedule of Supply. This Guide helps the Purchaser and Bidder fill in all the required information in the Price Schedule Form.

<b>Input of Information to be completed by Bidder</b>
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## Price Schedule For Goods To Be Offered From Within The Purchaser's Country

Name of Bidder \_\_\_\_\_ IFB Number \_\_\_\_\_ Page \_\_\_\_ of \_\_\_\_

1	2	3	4	5	6	7	8	9
Item	Description	Country of Origin	Domestic Value Added in Percent	Quantity and Unit of Measurement	Unit Price EXW	Total EXW Price per item	Sales and Other Taxes Per Item	Total Price per Item including Taxes
						<b>5 x 6</b>		<b>7 + 8</b>
Total Amount								

**Notes:**

Column 4: In accordance with margin of preference ITB Clause 35, if applicable.  
Domestic Value Added comprises domestic labor, the domestic content of materials, domestic overheads and profits from the stage of mining the raw material until final assembly.

Column 6: Incoterm in accordance with ITB Clause 14  
Currency in accordance with ITB Clause 15  
Price shall include all customs duties and sales and other taxes already paid or payable on the components and raw materials used in the manufacture or assembly of the item or the custom duties and sales and other taxes already paid on previously imported items.

Column 8: Payable in the Purchaser's country if Contract is awarded

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid for and on behalf of \_\_\_\_\_

Date \_\_\_\_\_



<b>Input of Information to be completed by Bidder</b>
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## Price Schedule For Related Services To Be Offered From Outside And Within The Purchaser's Country

Name of Bidder \_\_\_\_\_ IFB Number \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

1 Item No.	2 Description	3 Country of Origin	4 Quantity and Unit of Measurement	5 Unit Price		6 Total Price per Item	
				(a)	(b)	(a)	(b)
				Foreign Currency	Local Currency	Foreign Currency	Local Currency
						4 x 5(a)	4 x 5(b)
Total Amount							

**Notes :**

Column 5 and 6: Currencies in accordance with ITB Clause 15

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

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid for and on behalf of \_\_\_\_\_

Date \_\_\_\_\_

## **Bid Security and Bid Securing Declaration**

When requested in the Bid Data Sheet, the Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a Bid Security.

In case of an unconditional guarantee issued by a bank, the Bidder shall use the Bid Security Form included in this section or another form acceptable to the Purchaser prior to bid submission pursuant to ITB Clause 21.2. In either case, the form must include the complete name of the Bidder. The bid security shall be valid for twenty-eight days (28) beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 20.2.

If a Bid-Securing Declaration is specified pursuant to ITB 21.1 the Bidder shall use the form included in this section.

**Input of Information to be completed by Bidder**

## Form of Bid Security

*[insert Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** *[insert Name and Address of Employer]*

**Date:** *[insert date]*

**BID GUARANTEE No.:** *[insert number]*

We have been informed that *[insert name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of contract]* under Invitation for Bids No. *[insert IFB number]* ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures][insert amount in words]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB"); or
- (c) having been notified of the acceptance of its Bid by the *Employer* during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the ITB.

This guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; and (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy your notification to the Bidder of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of the Bidder's bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

Name \_\_\_\_\_

In the capacity of \_\_\_\_\_

Signed \_\_\_\_\_

Duly authorized to sign the Bid Security for and on behalf of \_\_\_\_\_

Date \_\_\_\_\_

## Form of Bid-Securing Declaration

Date: *[insert date (as day, month and year)]*

Bid No.: *[insert number of bidding process]*

Alternative No.: *[insert identification No if this is a Bid for an alternative]*

To: *[insert complete name of Employer]*

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the Borrower for the period of time of *[insert number of months or years]* starting on *[insert date]*, if we are in breach of our obligation(s) under the bid conditions, because we:

- (a) have withdrawn our Bid during the period of bid validity specified in the Form of Bid; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter “the ITB”); or
- (c) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with the ITB.

We understand this Bid-Securing Declaration shall expire if we are not the successful Bidder, upon the earlier of (i) our receipt of your notification to us of the name of the successful Bidder; or (ii) twenty-eight days after the expiration of our Bid.

Signed: *[insert signature of person whose name and capacity are shown]* In the capacity of *[insert legal capacity of person signing the Bid-Securing Declaration]*

Name: *[insert complete name of person signing the Bid-Securing Declaration]*

Duly authorized to sign the bid for and on behalf of: *[insert complete name of Bidder]*

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ *[insert date of signing]*

Corporate Seal (where appropriate)

*[Note: In case of a Joint Venture, the Bid-Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]*

### **Input of Information to be completed by Bidder**

The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Bidder shall include it in its bid, if so indicated in the BDS.

## **Manufacturer's Authorization**

Date: [*insert date (as day, month and year) of Bid Submission*]

ICB No.: [*insert number of bidding process*]

To: [*insert complete name of Employer*]

WHEREAS

We [*insert complete name of Manufacturer*], who are official manufacturers of [*insert type of goods manufactured*], having factories at [*insert full address of Manufacturer's factories*], do hereby authorize [*insert complete name of Bidder*] to submit a bid the purpose of which is to provide the following goods, manufactured by us [*insert name and or brief description of the goods*], and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 28 of the General Conditions, with respect to the goods offered by the above firm.

Signed: [*insert signature(s) of authorized representative(s) of the Manufacturer*]

Name: [*insert complete name(s) of authorized representative(s) of the Manufacturer*]

Title: [*insert title*]

Duly authorized to sign this Authorization on behalf of: [*insert complete name of Manufacturer*]

Dated on \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ [*insert date of signing*]





<b>Input of Information to be completed by Purchaser</b>
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## **Section V. Eligible Countries**

- A. For loans from the ADB's Ordinary Capital Resources**  
[Insert the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB's web page at [www.adb.org](http://www.adb.org).]
- B. For loans from the ADB's Special Funds Resources**  
[Insert the most recent list of ADB developed member countries which have contributed to such resources and all developing member countries]



**Input of Information to be completed by Purchaser****Section VI. Schedule of Supply**

The Schedule of Supply (SS) shall provide sufficient information to enable Bidders to efficiently and accurately prepare Bids that are realistic and competitive. The SS is a Contract document and, therefore, it is a part of the Contract. The Purchaser must prepare the SS and include it as a part of the Bidding Document.

The SS should be complete, precise, and clear. An incomplete, imprecise, or unclear SS may prompt Bidders to require clarifications from the Purchaser or to submit conditional bids or bids that may be based on different understandings of the Purchaser's requirements. Depending on the nature of the clarifications, the Purchaser may need to amend the Bidding Document and eventually to extend the bid-submission deadline. Conditional bids would have to be rejected. Bids that are not comparable can not be evaluated.

The Purchaser shall assign experienced staff to draft the SS in a manner permitting the widest possible competition, while at the same time clearly specifying the required standards of workmanship, the characteristics of materials and performance of the Goods, and the delivery and completion of the Goods and Related Services. Only by following this approach will the Purchaser ensure that the objectives of economy, efficiency, fairness, and transparency in procurement can be realized as envisaged under International Competitive Bidding (ICB) procedures.

The Schedule of Supply consists of four parts:

1. List of Goods and Related Services
2. Delivery and Completion Schedules
3. Technical Specifications
4. Drawings

The following notes provide guidance on how to prepare each of these parts.

## 1. List of Goods and Related Services

The purpose of the List of Goods and Related Services (LGRS) is to briefly describe and specify the quantities of each of the Goods and Related Services that the Purchaser requires the Bidder to include in its Bid. As a part of the SS, the LGRS constitutes a Contract document and, therefore, it is a part of the Contract. The Purchaser must prepare the LGRS and include it as a part of the SS.

If the Goods and Related Services are grouped in lots, the Purchaser must state here whether Bidders are permitted to submit Bids for individual lots or not. For example:

**[Alternative 1. Insert: “The Goods and Related Services are grouped in lots. Bids on individual lots are not permitted. Only Bids for all of the lots will be accepted.”]**

**[Alternative 2. Insert: “The Goods and Related Services are grouped in lots. Bidders shall have the option of submitting Bids for one, any combination, or all of the lots. Lots shall not be further subdivided for the purpose of bidding.”]**

<b>Lot No. : [if applicable]</b>				
<b>Lot Name : [if applicable]</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>

<b>Lot No. : [if applicable]</b>				
<b>Lot Name : [if applicable]</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>

<b>Lot No. : [if applicable]</b>				
<b>Lot Name : [if applicable]</b>				
<b>Item No.</b>	<b>Name of Goods or Related Services</b>	<b>Description</b>	<b>Unit of Measurement</b>	<b>Quantity</b>

## 2. Delivery and Completion Schedule

The purpose of the Delivery and Completion Schedule (DCS) is to specify the delivery dates and places for each of the Goods and the delivery places and completion dates for each of the Related Services as listed in the LGRS. The DCS, as part of the SS, constitutes a Contract document and, therefore, it is a part of the Contract. The Purchaser must prepare the DCS and include it as a part of the SS.

In preparing the DCS, the Purchaser should take into account the following:

- (a) The delivery and completion dates should be realistic. Unrealistically short delivery or completion expectations may result in restricted competition or may prompt complaints from prospective Bidders.
- (b) The date or period for delivery should be carefully specified, taking into account that the delivery terms stipulated must be consistent with:
  - the Incoterms EXW, CIF, CIP, CPT, FOB, FCR, FCA where delivery of the goods takes place when delivered to the custody of the first carrier, and not the place established as the “named place of destination”, and
  - the date specified in the Contract for the start of the Purchaser’s obligations (i.e. Notice of Award, date of signing the contract, opening or confirmation of the letter of credit).

In order to determine the realistic arrival dates of the goods at their final destinations, the Purchaser has to take into account the additional time that will be needed for international or national transit to the project site or to another common place of destination.

Delivery may be specified for a single shipment, or for several partial shipments, for a specific date, or a range of acceptable delivery periods.

For example, the following provision may be used:

**The delivery period shall start as of: [Insert: either “the date of the Notice of Award.”, or “the date of signing the contract”, or “the date of opening the letter of credit”, or “the date of confirmation of the letter of credit”]**

**Delivery shall take place in compliance with the dates, duration, and locations indicated below:**

<b>Item No.</b>	<b>Description of Goods or Related Services</b>	<b>Delivery Schedule</b>	<b>Location</b>	<b>Required Arrival Date of Goods or Completion Date for Related Services</b>
insert No. of item	insert name and brief description of the goods and the related services to be provided	insert date (dd/mm/yy) before which or duration (days/weeks/months) during which delivery must take place	insert place of destination for goods or site where services shall be performed	insert envisaged arrival date of goods at final destination or desired completion date for related services

### 3. Technical Specifications

The purpose of the Technical Specifications (TS) is to define the technical characteristics of the Goods and Related Services required by the Purchaser. The TS, as a part of the SS, constitute a Contract document and are, therefore, a part of the Contract. The Purchaser must prepare the TS and include them as a part of the Bidding Document, as applicable to each Contract.

In preparing the TS, the Purchaser should take into account the following:

- (a) Well-prepared TS will facilitate the examination, evaluation, and comparison of the Bids by the Purchaser, as the TS constitute the benchmarks against which the Purchaser will verify the technical responsiveness of Bids and subsequently evaluate the Bids.
- (b) The TS should require that all goods and materials to be incorporated in the Goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless otherwise provided for in the Contract.
- (c) The TS should make use of best practices: samples of specifications from successful similar procurement in the same country or sector may provide a sound basis for drafting the TS.
- (d) TS should be established bearing in mind the environmental impacts at all stages of a product's life-cycle, from its source of origin through its transport, use and disposal.
- (e) The ADB encourages the use of metric units.
- (f) Standardizing TS under General Technical Specifications may be advantageous, depending on the complexity of the Goods and the repetitiveness of the type of procurement. TS must be broad enough to avoid restrictions on workmanship, materials, and equipment commonly involved in manufacturing similar kinds of goods, even if these may not necessarily apply to a particular procurement. Particular technical requirements for a particular procurement would be specified in each case through deletions or addenda to the General TS.
- (g) Recognized international standards should be specified as much as possible. When other particular standards or codes of practice are referred to in the TS, whether from the Borrower's or from other eligible countries, they must be followed by a statement that other authoritative standards that ensure at least a substantially equal quality to the standards mentioned in the TS, will also be acceptable.
- (h) Reference to brand names and catalogue numbers should be avoided as far as possible; where unavoidable the words "or at least equivalent" shall always follow such references.
- (i) TS shall be fully descriptive of the requirements in respect of, but not limited to, the following:
  - standards of materials and workmanship required for the production and manufacture of the Goods.
  - detailed tests required (type and number).

- other additional work and/or Related Services required to achieve full delivery/completion.
  - detailed activities to be performed by the Supplier, and participation of the Purchaser therein.
  - list of detailed functional guarantees covered by the Warranty, and details of the penalties to be applied in the event that such guarantees are not met.
- (j) The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the Purchaser shall include an additional ad-hoc bidding form (to be an Attachment to the Bid Submission Sheet), where the Bidder shall provide detailed information on such technical performance characteristics in respect to the corresponding acceptable or guaranteed values.
- (k) When the Purchaser stipulates that the Bidder must provide in its Bid a part or all of the TS, technical schedules, or other technical information, the Purchaser shall specify in detail the nature and extent of the required information and the manner in which it must to be presented by the Bidder in its Bid.

#### **4. Drawings**

The purpose of drawings is to specify locations, dimensions, materials to be used, stages of manufacturing, and other characteristics of the Goods and Related Services. The Purchaser should prepare such drawings, as needed, and include them in the Bidding Document. Such drawings, as part of the SS, are Contract documents and, therefore, shall be part of the Contract. Similarly, the Purchaser may request the Supplier to provide drawings either with its Bid or for approval during Contract execution.

It is essential that the Purchaser prepares a **List of Drawings** showing all drawings it supplied and issued as part of the Bidding Document.

## Section VII. General Conditions of Contract

The GCC contain standard provisions that have been designed to remain unchanged and **to be used without modifying their text**. The GCC clearly identify the provisions that may normally need to be specified for a particular bidding process and require that such specification be introduced **through the SCC**.

The GCC are a Contract document and, therefore, are a part of the Contract.



## Section VII. General Conditions of Contract

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## 1. Definitions

1.1 The following words and expressions shall have the meanings hereby assigned to them:

- (a) “Contract” means the Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
- (b) “Contract Documents” means the documents listed in the Agreement, including any amendments thereto.
- (c) “Contract Price” means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
- (d) “Day” means calendar day.
- (e) “Delivery” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
- (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
- (g) “Eligible Countries” means the countries and territories eligible as listed in Section V.
- (h) “GCC” means the General Conditions of Contract.
- (i) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
- (j) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
- (k) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
- (l) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
- (m) “SCC” means the Special Conditions of Contract.

- (n) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.
- (o) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.
- (p) “The ADB” is the Asian Development Bank.
- (q) “The Site,” where applicable, means the place named in the SCC.

**2. Contract Documents**

- 2.1 Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.

**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; and
- (d) will sanction a party or its successor, including declaring ineligible, either indefinitely or for a stated period of time, to participate in ADB-financed activities if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for, or in executing, an ADB-financed contract.

3.2 The Supplier shall permit the ADB to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the ADB, if so required by the ADB.

#### **4. Interpretation**

4.1 If the context so requires it, singular means plural and vice versa.

#### 4.2 Incoterms

The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.

- (a) 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 SCC.

#### 4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of parties

with respect thereto made prior to the date of Contract.

#### 4.4 Amendment

No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.

#### 4.5 Nonwaiver

(d) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

(e) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 4.6 Severability

If any provision or condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of the Contract.

### **5. Language**

5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified in the SCC, in which case, for purposes of interpretation of the Contract, this translation shall govern.

5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

- 6. Joint Venture, Consortium or Association** 6.1 Unless otherwise specified in the SCC, if the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.
- 7. Eligibility** 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted or incorporated, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract and financed by the ADB shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, 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.
- 8. Notices** 8.1 Any Notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A Notice shall be effective when delivered or on the Notice’s effective date, whichever is later.
- 9. Governing Law** 9.1 The Contract shall be governed by and interpreted in accordance with the laws of the Purchaser’s country, unless otherwise specified in the SCC.
- 10. Settlement of Disputes** 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If the parties fail to resolve such a dispute or difference by mutual consultation within twenty-eight (28) days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.
- 11. Scope of** 11.1 Subject to the SCC, the Goods and Related Services to be

- Supply** supplied shall be as specified in Section VI, Schedule of Supply.
- 11.2 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.
- 12. Delivery** 12.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section VI, Schedule of Supply. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.
- 13. Supplier's Responsibilities** 13.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- 14. Purchaser's Responsibilities** 14.1 Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.
- 14.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Sub-Clause 14.1.
- 15. Contract Price** 15.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.
- 15.2 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC.
- 16. Terms of Payment** 16.1 The Contract Price shall be paid as specified in the SCC.
- 16.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all the obligations stipulated

in the Contract.

16.3 Payments shall be made promptly by the Purchaser, no later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.

16.4 The currency or currencies in which payments shall be made to the Supplier under this Contract shall be specified in the SCC.

## **17. Taxes and Duties**

17.1 For goods supplied from outside the Purchaser's country, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the Purchaser's country.

17.2 For goods supplied from within the Purchaser's country, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

17.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in the Purchaser's Country, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

## **18. Performance Security**

18.1 The Supplier shall, within twenty-eight (28) days of the notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.

18.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18.3 The Performance Security shall be denominated in the currencies of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the forms stipulated by the Purchaser in the SCC, or in another form acceptable to the Purchaser.

18.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless specified otherwise in the SCC.

**19. Copyright**

19.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.

**20. Confidential Information**

20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.

20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the Contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

20.3 The obligation of a party under GCC Sub-Clauses 20.1 and 20.2 above, however, shall not apply to information that:

- (a) the Purchaser or Supplier need to share with the ADB or other institutions participating in the financing of the Contract;
- (b) now or hereafter enters the public domain through no fault of that party;
- (c) can be proven to have been possessed by that party at the time of disclosure and which was not previously obtained, directly or indirectly, from the other party; or
- (d) otherwise lawfully becomes available to that party from a third party that has no obligation of confidentiality.

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

## **21. Subcontracting**

21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the Bid. Subcontracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

21.2 Subcontracts shall comply with the provisions of GCC Clauses 3 and 7.

## **22. Specifications and Standards**

22.1 Technical Specifications and Drawings

(a) The Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Contract.

(b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

(c) The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section VI, Schedule of Supply and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.

22.2 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Section VI, Schedule of Supply. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 33.

## **23. Packing and Documents**

23.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During

transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the final destination of the Goods and the absence of heavy handling facilities at all points in transit.

23.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Purchaser.

**24. Insurance**

24.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured, in a freely convertible currency from an eligible country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the SCC.

**25. Transportation**

25.1 Unless otherwise specified in the SCC, obligations for transportation of the Goods shall be in accordance with the Incoterms specified in Sections VI, Schedule of Supply.

**26. Inspections and Tests**

26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in Sections VI, Schedule of Supply.

26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the final destination of the Goods, or in another place in the Purchaser's country as specified in the SCC. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

26.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging

expenses.

26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.

26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.

26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.

26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.

## **27. Liquidated Damages**

27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay

until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

## **28. Warranty**

28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

28.2 Subject to GCC Sub-Clause 22.1, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.

28.3 Unless otherwise specified in the SCC, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for eighteen (18) months after the date of shipment or loading in the country of origin, whichever period concludes earlier.

28.4 The Purchaser shall give Notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.

28.5 Upon receipt of such Notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.

28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the SCC, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## **29. Patent Indemnity**

29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility

model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

- (a) the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and
- (b) the sale in any country of the products produced by the Goods.

Such indemnity shall not cover any use of the Goods or any part thereof other than for the purpose indicated by or to be reasonably inferred from the Contract, neither any infringement resulting from the use of the Goods or any part thereof, or any products produced thereby in association or combination with any other equipment, plant, or materials not supplied by the Supplier, pursuant to the Contract.

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or

designed by or on behalf of the Purchaser.

**30. Limitation of Liability**

30.2 Except in cases of gross negligence or willful misconduct :

- (a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and
- (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the amount specified in the SCC, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

**31. Change in Laws and Regulations**

31.1 Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

**32. Force Majeure**

32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

32.2 For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods,

epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

**33. Change Orders and Contract Amendments**

33.1 The Purchaser may at any time order the Supplier through Notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

33.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

**34. Extensions of Time**

34.1 If at any time during performance of the Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which

case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 27, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

## **35. Termination**

### **35.1 Termination for Default**

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by Notice of default sent to the Supplier, may terminate the Contract in whole or in part:
  - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34; or
  - (ii) if the Supplier fails to perform any other obligation under the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.
- (c) (c) if the Supplier, in the judgment of the Purchaser has engaged in corrupt or fraudulent practices, as defined in GCC Clause 3, in competing for or in executing the Contract.

### **35.2 Termination for Insolvency**

The Purchaser may at any time terminate the Contract by giving Notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy that

has accrued or will accrue thereafter to the Purchaser.

### 35.3 Termination for Convenience

- (a) The Purchaser, by Notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The Notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- (b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of the Notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
  - (i) To have any portion completed and delivered at the Contract terms and prices; and/or
  - (ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

## 36. Assignment

- 36.1 Neither the Purchaser nor the Supplier shall assign, in whole or in part, their obligations under this Contract, except with prior written consent of the other party.

## Section VIII. Special Conditions of Contract

The Special Conditions of Contract (SCC) contain provisions that the GCC require be specified for a particular bidding process. The Purchaser should include at the time of issuing the Bidding Document, all information or specifications that the GCC indicate shall be provided in the SCC. No SCC Clause should be left blank.

To facilitate the preparation of the SCC, its clauses are numbered with same numbers as the corresponding GCC clauses. This Guide helps the Purchaser to input all information required. It includes a SCC format that summarizes all information to be provided.

The SCC are a Contract document and, therefore, are a part of the Contract.

<b>Input of Information to be completed by Purchaser</b>
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## Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

<b>GCC 1.1 (j)</b>	The Purchaser's country is: <b>[insert name of country]</b>
<b>GCC 1.1 (k)</b>	The Purchaser is: <b>[insert complete name]</b>
<b>GCC 1.1 (q)</b>	The Site is: <b>[insert name and detailed information on the location of the Site]</b>
<b>GCC 4.2 (b)</b>	The version of Incoterms shall be: <b>[indicate version of Incoterms]</b>
<b>GCC 5.1</b>	The language shall be: <b>[insert "English"]</b>
<b>GCC 6.1</b>	<p>(e) The individuals or firms in a joint venture, consortium or association <b>[insert "shall" or "shall not"]</b> be jointly and severally liable.</p> <p>(f) <b>[If the individuals or firms shall not be jointly and severally liable, insert: "Instead, the following specific liabilities and responsibilities shall apply to each individual or firm: (specify in detail)."]</b></p>
<b>GCC 8.1</b>	<p>For <b>notices</b>, the Purchaser's address is:</p> <p>Attention: <b>[insert full name of person, if applicable]</b></p> <p>Street Address: <b>[insert street address and number]</b></p> <p>Floor/ Room number: <b>[insert floor and room number, if applicable]</b></p> <p>City: <b>[insert name of city or town]</b></p> <p>ZIP Code: <b>[insert postal (ZIP) code, if applicable]</b></p> <p>Country: <b>[insert name of country]</b></p> <p>Telephone: <b>[insert telephone number, including country and city codes]</b></p> <p>Facsimile number: <b>[insert telephone number, including country and city codes]</b></p> <p>Electronic mail address: <b>[insert email address, if applicable]</b></p>

<b>GCC 9.1</b>	The governing law shall be: <b>[insert name of state or country]</b>
<b>GCC 10.2</b>	<p>The formal mechanism for the resolution of disputes shall be: <b>[insert type and description.]</b></p> <p><b>Alternative 1: [insert: “In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.”]</b></p> <p><b>Alternative 2: [insert: “In the case of a dispute between the Purchaser and the Supplier, the dispute shall be settled by arbitration under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators selected in accordance with said Rules.”]</b></p>
<b>GCC 11.1</b>	The Scope of Supply shall be defined in: <b>[insert “Section VI, Schedule of Supply” or indicate where the Scope of Supply shall be defined. At the time of awarding the Contract, the Purchaser shall specify any change in the Scope of Supply with respect to Section VI, Schedule of Supply included in the Bidding Document. Such changes may be due, for instance, if the quantities of Goods and Related Services are increased or decreased at the time of award.]</b>
<b>GCC 12.1</b>	<p>Details of shipping and documents to be furnished by the Supplier shall be:</p> <p><b>[For example insert:</b></p> <p><b>“For Goods supplied from abroad as per Incoterms CIF or CIP:</b></p> <p><b>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by telex or fax the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall send the following documents to the Purchaser, with a copy to the Insurance Company:</b></p> <ul style="list-style-type: none"> <li><b>(a) ....copies of the Supplier’s invoice showing the description of the Goods, quantity, unit price, and total amount;</b></li> <li><b>(b) original and....copies of the negotiable, clean, on-board bill of lading marked “freight prepaid” and....copies of non-negotiable bill of lading;</b></li> <li><b>(c) ....copies of the packing list identifying contents of each package;</b></li> <li><b>(d) insurance certificate;</b></li> <li><b>(e) Manufacturer’s or Supplier’s warranty certificate;</b></li> <li><b>(f) inspection certificate, issued by the nominated inspection agency, and the Supplier’s factory inspection report; and</b></li> <li><b>(g) certificate of origin.</b></li> </ul> <p><b>The Purchaser shall receive the above documents at least one week before arrival of the Goods at the port or place of arrival and, if not received, the</b></p>

	<p><b>Supplier will be responsible for any consequent expenses.</b></p> <p><b>For Goods from within the Purchaser's country as per Incoterm EXW:</b></p> <p><b>Upon delivery of the Goods to the transporter, the Supplier shall notify the Purchaser and send the following documents to the Purchaser:</b></p> <ul style="list-style-type: none"> <li>(a) ....copies of the Supplier's invoice showing the description of the Goods, quantity, unit price, and total amount;</li> <li>(b) delivery note, railway receipt, or truck receipt;</li> <li>(c) Manufacturer's or Supplier's warranty certificate;</li> <li>(d) inspection certificate issued by the nominated inspection agency, and the Supplier's factory inspection report; and</li> <li>(e) certificate of origin.</li> </ul> <p><b>The Purchaser, shall receive the above documents before the arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.]</b></p>
GCC 15.2	<p>The price adjustments shall be: [indicate if prices under the Contract shall be adjusted, and if so, insert the methodology for adjustment.]</p> <p>[For example insert: " Pursuant to GCC Sub-clause 15.2, prices payable to the Supplier, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:</p> $P_1 = P_0 - \left( a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$ <p>The terms in the formula have the following meanings:</p> <p><b>P<sub>1</sub> = Price adjustment payable to the Supplier</b></p> <p><b>P<sub>0</sub> = Contract Price (base price)</b></p> <p><b>a = fixed portion representing profit and overhead included in the Contract Price. (Generally in the range of 5 to 15 percent)</b></p> <p><b>b = estimated percentage of labor component in the Contract Price</b></p> <p><b>c = estimated percentage of material component in the Contract Price</b></p> <p><b>L<sub>0</sub>, L<sub>1</sub> = labor indices applicable to the appropriate industry in the country of origin of the Goods on the base date and on the date for adjustment, respectively</b></p> <p><b>M<sub>0</sub>, M<sub>1</sub> = material indices for the major raw material on the base date and on the date for adjustment, respectively, in the country of origin of the Goods</b></p> <p><b>The coefficients a, b, and c shall be specified by the Purchaser in the bidding document. The sum of the three coefficients should be one (1) in every</b></p>

	<p><b>application of the formula.</b></p> <p><b>The Bidder shall indicate in its Bid, the source of the indices and the base dates for such indices.</b></p> <p><b>Base date = twenty-eight days prior to the deadline for submission of the Bids.</b></p> <p><b>Date of adjustment = .....weeks prior to date of shipment (representing the mid-point of the period of manufacture).</b></p> <p><b>The above price adjustment formula shall be invoked by either party subject to the following further conditions:</b></p> <p>(a) <b>Price adjustment will be applied only if the resulting increase or decrease is more than ____ percent of the Contract Price. (2 percent would be an acceptable percentage.)</b></p> <p>(b) <b>No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The Purchaser will, however, be entitled to any decrease in the prices of the Goods and Related Services subject to adjustment.</b></p> <p>(c) <b>If the currency in which the Contract Price (<math>P_0</math>) is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.</b></p> <p>(d) <b>No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.]</b></p>
GCC 16.1	<p><b>Payment of the Contract Price shall be made in the following manner:</b></p> <p><b>[For example insert:</b></p> <p><b>“For Goods and Related Services supplied from outside the Purchaser’s country:</b></p> <p>(a) <b>Advance Payment: Ten (10) percent of the Contract Price within twenty-eight (28) days of signing of the Contract. Payment shall be made provided the Supplier presents a request for payment accompanied by an Advance Payment Security in the form of a bank guarantee for an amount equal to the amount of the payment, and that shall be valid until the Goods are delivered. The security shall be in the</b></p>

	<p>form as specified in Section IX, Contract Forms.</p> <p>(b) <b>On Shipment:</b> The Purchaser shall pay the Supplier eighty (80) percent of the Contract Price of the Goods shipped through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country under the ADB commitment procedure, upon submission of documents specified in SCC Clause 12.1.</p> <p>(c) <b>On Acceptance:</b> Ten (10) percent of the Contract Price of Goods received shall be paid within twenty-eighty (28) days of receipt of the Goods upon submission of a claim supported by the acceptance certificate issued by the Purchaser.</p> <p><b>For Goods and Related Services supplied from within the Purchaser's country:</b></p> <p>(a) <b>Advance Payment:</b> Ten (10) percent of the Contract Price within twenty-eight (28) days of signing of the Contract. Payment shall be made provided the Supplier presents a request for payment accompanied by an Advance Payment Security in the form of a bank guarantee for an amount equal to the amount of the payment, and that shall be valid until the Goods are delivered. The security shall be in the form as specified in Section IX, Contract Forms.</p> <p>(b) <b>On Delivery:</b> The Purchaser shall pay the Supplier eighty (80) percent of the Contract Price of the Goods shipped through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country under the ADB commitment procedure, upon submission of documents specified in SCC Clause 12.1.</p> <p>(c) <b>On Acceptance:</b> Ten (10) percent of the Contract Price of Goods received shall be paid within twenty-eighty (28) days of receipt of the Goods upon submission of a claim supported by the acceptance certificate issued by the Purchaser.”]</p>
GCC 16.4	The currencies for payments shall be: [indicate the currencies of payment]
GCC 18.1	<p>The Supplier shall provide a Performance Security of [specify a figure between 5 and 10 percent] percent of the Contract Price. The Performance Security shall be denominated in the following amounts and currencies:</p> <p>[Alternative 1: insert the amounts and currencies of the Performance Security which shall be in proportion to the amounts and currencies of the Contract Price; or</p> <p>Alternative 2: specify one Performance Security amount in a freely convertible currency.</p> <p>Because of the above, the currencies and amounts of the Performance Security can only be specified at the time of awarding the Contract.]</p>
GCC 18.3	<p>The types of acceptable Performance Securities are: [insert the name and description of Performance Security acceptable to the Purchaser and ADB.]</p> <p>[For example insert: “A bank guarantee issued by a reputable bank located in the Purchaser's country or abroad, acceptable to the Purchaser, in the format included</p>

	<b>in Section IX, Contract Forms, or a cashier's or certified check, or cash.]</b>
<b>GCC 18.4</b>	<p>Discharge of the Performance Security shall take place:[insert (a) in accordance with GCC Sub-Clause 18.4; or (b) indicate how the Performance Security shall be discharged]</p> <p>[For example insert: "Pursuant to GCC Sub-Clause 18.4, after delivery and acceptance of the Goods, the performance security shall be reduced to (specify percentage figure, i.e. 5 ) percent of the Contract to cover the Supplier's warranty obligations in accordance with GCC Clause 28.3."]</p>
<b>GCC 23.2</b>	<p>The packing, marking, and documentation within and outside the packages shall be: [insert in detail the type of packing, the markings, and all documentation required. Consideration should be given to whether, during sea transport, the Goods should be transported under deck. The provision must further expressly provide details for markings and documentation to be required within and outside the packing cases.]</p>
<b>GCC 24.1</b>	<p>The insurance coverage shall be in accordance with: [insert type of coverage, currency, and amount]</p> <p>[For example insert: "Pursuant to GCC, Sub-Clause 24.1, the Supplier must insure the Goods in an amount equal to 110 percent of the CIF, CIP or EXW price of the Goods from "Warehouse" to "Warehouse" on "All Risks" basis, including War Risks and Strikes."]</p>
<b>GCC 25.1</b>	<p>Obligations for transportation of the Goods shall be in accordance with: [indicate whether the responsibility for transportation shall be in accordance with Incoterms or other trade terms.]</p>
<b>GCC 26.2</b>	<p>Tests and Inspections specified in Section VI, Schedule of Supply, shall be carried out at the following times or milestones, and places: [Depending on the type of Goods to be procured, there may be a need to provide for special - inspections and/or tests to be carried out. In particular, this will be the case when the Goods are designed specifically for the purpose of the Project in question or where due to the nature of the Goods, there is a need to ensure compliance with certain technical specifications and requirements at an early stage. If there is a need for such special inspections and/or tests, the SSC should mention specific testing methods and the timing or milestones and places where the tests and/or inspections are to be carried out. For example insert for each test:</p> <p><b>Goods:</b> _____</p> <p><b>Type of Test:</b> _____</p> <p><b>Time or Milestone:</b> _____</p> <p><b>Place:</b> _____</p> <p><b>Address:</b> _____</p>

	<b>Country:</b> _____]
<b>GCC 27.1</b>	The applicable rate for liquidated damages for delay shall be: <b>[insert rate, i.e. 0.5 percent of the Contract Price per week or part thereof.]</b>  The maximum amount of liquidated damages shall be <b>[insert maximum amount for liquidated damages, i.e. 10 percent of the Contract Price]</b>
<b>GCC 28.3</b>	The period of validity of the Warranty shall be: <b>[insert the period of validity of the warranty]</b>
<b>GCC 28.5</b>	The Supplier shall correct any defects covered by the Warranty within <b>[insert period, i.e. number of days]</b> of being notified by the Purchaser of the occurrence of such defects
<b>GCC 30.1</b>	The amount of aggregate liability shall be: <b>[insert amount of aggregate liability i.e. 100 percent of the Contract Price]</b>

## Section IX. Contract Forms

Section IX of the BD contains forms for the Agreement, the Performance Security, and the Advance Payment. Bidders shall not submit these forms with their Bids. After notification of award, the Purchaser shall prepare the Agreement using the Agreement Form and send it to the successful Bidder. The successful Bidder shall sign the Agreement and return it to the Purchaser together with the Performance Security and, if applicable, the Advance Payment Security, using the respective forms provided in Section IX. Bidders shall note that the Advance Payment Security is submitted only when the Contract specifies that there will be an advance payment.

**Input of Information to be completed by the Bidder Awarded the Contract**

## Agreement Form

THIS AGREEMENT made on the **[insert number]** day of **[insert month]**, **[insert year]**, between **[insert complete name of Purchaser]** of **[insert complete address of Purchaser]** (hereinafter “the Purchaser”), of the one part, and **[insert complete name of Supplier]** of **[insert complete address of Supplier]** (hereinafter “the Supplier”), of the other part:

WHEREAS the Purchaser invited Bids for certain Goods and Related Services, viz., **[insert brief description of the Goods and Related Services]** and has accepted a Bid by the Supplier for the supply of those Goods and Related Services in the sum of **[insert currency or currencies and amount of contract price in words and figures]** (hereinafter “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Purchaser's Notification to the Supplier of Award of Contract;
  - (b) the Bid Submission Sheet and the Price Schedules submitted by the Supplier;
  - (c) the Special Conditions of Contract;
  - (d) the General Conditions of Contract;
  - (e) the Schedule of Supply; and
  - (f) **[indicate other documents required]**

This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of **[indicate name of country]** on the day, month, and year indicated above.

Signed by **[insert authorized signature for the Purchaser]** (for the Purchaser)

Signed by **[insert authorized signature for the Supplier]** (for the Supplier)

**Input of Information to be completed by the Bidder Awarded the Contract****Performance Security**

[insert complete name and number of Contract]

To: [insert complete name of Purchaser]

WHEREAS [insert name complete of Supplier] (hereinafter “the Supplier”) has undertaken, pursuant to Contract No. [insert number] dated [insert day and month], [insert year] to supply [brief description of the Goods and Related Services] (hereinafter “the Contract”).

AND WHEREAS it has been stipulated by you in the aforementioned Contract that the Supplier shall furnish you with a security [insert type of security] issued by a reputable guarantor for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS the undersigned [insert complete name of Guarantor], legally domiciled in [insert complete address of Guarantor], (hereinafter the “Guarantor”), have agreed to give the Supplier a security:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Supplier, up to a total of [insert currency or currencies and amount of guarantee in words and figures] and we undertake to pay you, upon your first written demand declaring the Supplier to be in default under the Contract, without cavil or argument, any sum or sums within the limits of [insert currency or currencies and amount of guarantee in words and figures] as aforesaid, without your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This security is valid until the [insert day, month, year].

Name: [insert complete name of person signing the Security]

In the capacity of: [insert legal capacity of person signing the Security]

Signed: [insert signature of person whose name and capacity are shown above]

Duly authorized to sign the security for and on behalf of: [insert seal and complete name of Guarantor]

Date: [insert date of signing]

**If applicable,  
Input of Information to be completed by Bidder Awarded the Contract**

## Advance Payment Security

[insert complete name and number of Contract]

To: [insert complete name of Purchaser]

In accordance with the payment provision included in the Contract, in relation to advance payments, [insert complete name of Supplier] (hereinafter called "the Supplier") shall deposit with the Purchaser a security consisting of [indicate type of security], to guarantee its proper and faithful performance of the obligations imposed by said Clause of the Contract, in the amount of [insert currency and amount of guarantee in words and figures].

We, the undersigned [insert complete name of Guarantor], legally domiciled in [insert full address of Guarantor] (hereinafter "the Guarantor"), as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligor and not as surety merely, the payment to the Purchaser on its first demand without whatsoever right of objection on our part and without its first claim to the Supplier, in the amount not exceeding [insert currency and amount of guarantee in words and figures].

This security shall remain valid and in full effect from the date of the advance payment being received by the Supplier under the Contract until [insert day, month, year].

Name: [insert complete name of person signing the Security]

In the capacity of: [insert legal capacity of person signing the Security]

Signed: [insert signature of person whose name and capacity are shown above]

Duly authorized to sign the security for and on behalf of: [insert seal and complete name of Guarantor]

Date: [insert date of signing]