

**MINISTRY OF HEALTH & FAMILY WELFARE  
National AIDS Control Organization (NACO)  
Government of India**



Government of India

***National AIDS Control Programme Phase-IV  
(NACP-IV)***

**INTERNATIONAL COMPETITIVE BIDDING**

**BID DOCUMENT**

for

**PROCUREMENT**

OF

**CD4 POINT OF CARE (POC) MACHINE - Low Throughput**

**IFB NO.: SAMS/NACP/CD4 Machine (POC)/07/2016**

*(Procurement Agent)*



**STRATEGIC ALLIANCE  
Management Services Pvt. Ltd.**

B01-B03, Vardhman Diamond Plaza, Community Centre,  
D.B. Gupta Road, Paharganj, New Delhi 110055, INDIA;  
Phone: +91-7042697953, +91-7042697950 011-43580626/7;

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Website: [www.samsconsult.com](http://www.samsconsult.com)

**MINISTRY OF HEALTH & FAMILY WELFARE**  
National AIDS Control Organization  
Government of India

Through

**PROCUREMENT AGENT**  
Strategic Alliance Management Services Pvt. Ltd.  
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**INTERNATIONAL COMPETITIVE BIDDING**  
FOR  
**PROCUREMENT OF CD4 POINT OF CARE (POC) MACHINE –**  
**Low Throughput**

Name of the Programme: *National AIDS Control Programme Phase-IV (NACP-IV)*  
Source of Financing : *Grant received from The Global Fund to Fight AIDS,  
Tuberculosis and Malaria (GFATM)*

**BID REFERENCE: IFB NO.: SAMS/NACP/CD4 Machine (POC)/07/2016**

<b>DATE OF COMMENCEMENT OF SALE OF BID DOCUMENT</b>	<b>07 June, 2016</b>
<b>LAST DATE AND TIME FOR RECEIPT OF REQUEST FOR CLARIFICATIONS</b>	<b>By 1700 hours on 27 June, 2016</b> (All such request must be submitted through mail.) E-mail ID: <a href="mailto:bhutaniak@samsconsult.com">bhutaniak@samsconsult.com</a> <a href="mailto:satyaverma68@gmail.com">satyaverma68@gmail.com</a>
<b>DATE &amp; TIME FOR PRE-BID MEETING</b>	<b>1430 hours on 28 June, 2016</b>
<b>LAST DATE &amp; TIME AND FOR RECEIPT OF BIDS</b>	<b>1430 hours on 21 July, 2016</b>
<b>TIME &amp; DATE for OPENING OF BIDS</b>	<b>1500 hours on 21 July, 2016</b>
<b>PLACE OF PRE-BID MEETING, BID SUBMISSION AND OPENING OF BIDS</b>	Strategic Alliance Management Services Pvt. Ltd. B01-B03, Vardhman Diamond Plaza, Community Centre, D.B. Gupta Road, Paharganj, New Delhi 110055, INDIA Phone: +91-11-43580626 / 7, +91-7042697953
<b>All times shown are as per Indian Standard Time (IST)</b>	

# Invitation for Bids (IFB)

**Country** : India  
**Name of Programme:** *National AIDS Control Programme Phase-IV (NACP-IV)*  
**Source of Financing:** *Grant received from GFATM*  
**Name of Goods** : **CD4 POINT OF CARE (POC) MACHINE - Low Throughput**  
**IFB No** : **SAMS/NACP/CD4 (POC) Machine /07/2016**

1. Government of India has received fund from GFATM towards the cost of **National AIDS Control Programme Phase IV (NACP-IV)** and it is intended that part of the proceeds of this fund will be applied to eligible payments under this proposed project for which this invitation for bid is issued.
2. **Strategic Alliance Management Services Pvt. Ltd. (SAMS)**, acting as procurement agent on behalf of Ministry of Health & Family Welfare, Govt. of India now invites sealed bids from eligible bidder for the Procurement of **75 Nos. CD4 POINT OF CARE (POC) MACHINE - Low Throughput** as per Schedule of Requirement. Further details can be found in the bidding documents.
3. Bidding will be conducted through the International Competitive Bidding procedures specified in the World Bank's Guidelines: Procurement under IBRD Loans and IDA Credits [January 2011, updated on July, 2014], and is open to all bidders from eligible sources countries as defined in the guidelines.
4. Interested eligible Bidders may obtain further information from SAMS and inspect the bidding documents at the address given in para 10 below from 1000 to 1600 hrs. (IST) on all working days.
5. A complete set of bidding documents in English may be purchased by interested bidders on the submission of a written application to the address below and upon payment of a non refundable fee of **Rs. 3000 or US \$ 60**. The document may be purchased from **07.06.2016 to 21.07.2016** from the address mentioned in para 10 below. The document will be sent by courier on payment of an extra amount of **Rs 500** for domestic bidder and **US \$ 20** for overseas bidder, if requested by mail.
6. Bidders can also download the bid document from websites i.e. <http://www.samsconsult.com/procurement.php>. or [www.naco.gov.in](http://www.naco.gov.in) . **The bidders who have downloaded the bid document from website are also required to attach a Demand Draft / Cashier's Cheque / Certified Cheque for non-refundable fee of Rs. 3,000/- or US \$ 60/- as the case may be along with their bid.** The bid document fee payment can be made by Demand Draft / Cashier's Cheque / Certified Cheque in favour of **Strategic Alliance Management Services Pvt. Ltd. payable at Delhi (India).**
7. **SAMS will only evaluate the bids accompanied by the Bid Document Fee, as stated in paras 5 and 6 above.**

8. The bidders, who have downloaded the bid documents, shall be solely responsible for checking these websites for any addendum/amendment issued subsequently to the bid document and take into consideration the same while preparing and submitting the bids.
9. The authorized representatives of bidders are invited to attend a pre bid meeting which will take place **on 28.06.2016 at 1430 hrs (IST)** at the address mentioned in para 10 below . Please note that non-attendance at the pre-bid meeting will not be the cause of disqualification of the bidders. Such authorized representatives should carry letter of authorization to attend the pre-bid meeting on behalf of the bidder. Bidders are requested to depute one representative each to attend the pre-bid meeting/ bid opening.
10. Bids must be delivered to the address below before **1430 hrs (IST) on 21.07.2016**. **All bids must be accompanied by bid document fee as mentioned above in para 5 & 6 and a bid security as specified in the “Section VI – Schedule of Requirements” of the bidding document.** Late bids will be rejected. Bids will be opened in the presence of the bidders’ representatives who choose to attend at the address below **at 1500 hrs (IST) on 21.07.2016**.

Strategic Alliance Management Services Pvt. Ltd.  
B01-B03, Vardhman Diamond Plaza,  
Community Centre, D.B. Gupta Road,  
Paharganj, New Delhi 110055, INDIA  
Phone: +91-11-43580626 / 7, +91-7042697953

**Anil Kumar Bhutani**  
**GM (Procurement) & Team Leader**

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# **PART 1 – Bidding Procedures**





# Section I. Instructions to Bidders

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## Section I. Instructions to Bidders

### A. General

1. **Scope of Bid**
  - 1.1 In connection with the Invitation for Bids, **specified in the Bid Data Sheet (BDS)**, the Purchaser, **as specified in the BDS**, issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section VII, Schedule of Requirements. The name, identification and number of lots (contracts) of this International Competitive Bidding (ICB) procurement are **specified in the BDS**.
  - 1.2 Throughout these Bidding Documents:
    - (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax) 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 Recipient (hereinafter called “Principal Recipient”) **specified in the BDS** has received financing (hereinafter called “grant”) from the ‘Global Fund to Fight AIDS, Tuberculosis and Malaria (hereinafter called “GFATM”) toward the project named **in BDS**. The Principal Recipient intends to apply a portion of the grant to eligible payments under the contract for which these Bidding Documents are issued.
  - 2.2 Payment by the GFATM will be made only at the request of the Principal Recipient and upon approval by the GFATM in accordance with the terms and conditions of the Grant Agreement. The Grant Agreement prohibits a withdrawal from the grant account for the purpose of any payment to persons or entities, or for any import of goods, if such payment or import, to the knowledge of the GFATM, is prohibited by decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations. No party other than the Principal Recipient shall derive any rights from the Grant Agreement or have any claim to the proceeds of the grant.
3. **Corrupt and Fraudulent Practices**
  - 3.1 The GFATM requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Section VI.
  - 3.2 In further pursuance of this policy, Bidders shall permit and shall cause its agents (where declared or not), sub-contractors, sub-consultants, service providers or suppliers and to permit the GFATM to inspect all accounts, records and other documents relating to the submission of the application, bid submission (in case prequalified), and contract performance (in the case of award), and to have them audited by auditors appointed by

GFATM.

- 4. Eligible Bidders**
- 4.1 A Bidder may be a firm that is a private entity, a government-owned entity—subject to ITB 4.5—or any combination of such entities in the form of a joint venture (JV) under an existing agreement or with the intent to enter into such an agreement supported by a letter of intent. In the case of a joint venture, all members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms. The JV shall nominate a Representative who shall have the authority to conduct all business for and on behalf of any and all the members of the JV during the bidding process and, in the event the JV is awarded the Contract, during contract execution. **Unless specified in the BDS,** there is no limit on the number of members in a JV.
- 4.2 A Bidder shall not have a conflict of interest. Any Bidder found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest for the purpose of this bidding process, if the Bidder:
- (a) directly or indirectly controls, is controlled by or is under common control with another Bidder; or
  - (b) receives or has received any direct or indirect subsidy from another Bidder; or
  - (c) has the same legal representative as another Bidder; or
  - (d) has a relationship with another Bidder, directly or through common third parties, that puts it in a position to influence the bid of another Bidder, or influence the decisions of the Purchaser regarding this bidding process; or
  - (e) 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 such Bidder is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or
  - (f) any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid; or
  - (g) any of its affiliates has been hired (or is proposed to be hired) by the Purchaser or Principal Recipient for the Contract implementation; or
  - (h) would be providing goods, works, or non-consulting services resulting from or directly related to consulting services for the preparation or implementation of the project specified in the BDS ITB 2.1 that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with

that firm; or

- (i) has a close business or family relationship with a professional staff of the Principal Recipient (or of the project implementing agency, or of a recipient of a part of the loan) who: (i) are directly or indirectly involved in the preparation of the bidding documents or specifications of the contract, and/or the bid evaluation process of such contract; or (ii) would be involved in the implementation or supervision of such contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the Purchaser / Principal Recipient throughout the procurement process and execution of the contract
- 4.3 A Bidder may have the nationality of any country, subject to the restrictions pursuant to ITB 4.7. A Bidder shall be deemed to have the nationality of a country if the Bidder is constituted, incorporated or registered in and operates in conformity with the provisions of the laws of that country, as evidenced by its articles of incorporation (or equivalent documents of constitution or association) and its registration documents, as the case may be. This criterion also shall apply to the determination of the nationality of proposed sub-contractors or sub-consultants for any part of the Contract including related Services.
- 4.4 A Bidder that has been sanctioned by the World Bank in accordance with the above ITB 3.1, including in accordance with the Bank's Guidelines on Preventing and Combating Corruption in Projects Financed by IBRD Loans and IDA Credits and Grants ("Anti-Corruption Guidelines"), shall be ineligible to be prequalified for, bid for, or be awarded a GFATM-financed contract or benefit from a GFATM-financed contract, financially or otherwise, during such period of time as the Bank shall have determined. The list of debarred firms and individuals is available at the electronic address **specified in the BDS.**
- 4.5 Bidders that are Government-owned enterprises or institutions in the Purchaser's Country may participate only if they can establish that they (i) are legally and financially autonomous (ii) operate under commercial law, and (iii) are not dependent agencies of the Purchaser. To be eligible, a government-owned enterprise or institution shall establish to the GFATM's / Bank's satisfaction, through all relevant documents, including its Charter and other information the GFATM/Bank may request, that it: (i) is a legal entity separate from the government (ii) does not currently receive substantial subsidies or budget support; (iii) operates like any commercial enterprise, and, inter alia, is not obliged to pass on its surplus to the government, can acquire rights and liabilities, borrow funds and be liable for repayment of its debts, and can be declared bankrupt; and (iv) is not bidding for a contract to be awarded by the

department or agency of the government which under their applicable laws or regulations is the reporting or supervisory authority of the enterprise or has the ability to exercise influence or control over the enterprise or institution.

- 4.6 A Bidder shall not be under suspension from bidding by the Purchaser as the result of the operation of a Bid–Securing Declaration.
- 4.7 Firms and individuals may be ineligible if so indicated in Section V and (a) as a matter of law or official regulations, the Principal Recipient’s country prohibits commercial relations with that country, provided that the GFATM/Bank is satisfied that such exclusion does not preclude effective competition for the supply of goods or the contracting of works or services required; or (b) 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 Principal Recipient’s country prohibits any import of goods or contracting of works or services from that country, or any payments to any country, person, or entity in that country.
- 4.8 A Bidder shall provide such evidence of eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.

**5. Eligible Goods and Related Services**

- 5.1 All the Goods and Related Services to be supplied under the Contract and financed by the GFATM may have their origin in any country in accordance with Section V, Eligible Countries.
- 5.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, and industrial plants; and “related services” includes services such as insurance, installation, training, and initial maintenance.
- 5.3 The term “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 components.

**B. Contents of Bidding Document**

**6. Sections of Bidding Document**

- 6.1 The Bidding Documents 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. Bidding Data Sheet (BDS)
- Section III. Evaluation and Qualification Criteria

- Section IV. Bidding Forms
- Section V. Eligible Countries
- Section VI. GFATM/World Bank Policy-Corrupt and Fraudulent Practices

#### **PART 2 Supply Requirements**

- Section VII. Schedule of Requirements

#### **PART 3 Contract**

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

6.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Document.

6.3 Unless obtained directly from the Purchaser, the Purchaser is not responsible for the completeness of the document, responses to requests for clarification, the Minutes of the pre-Bid meeting (if any), or Addenda to the Bidding Document in accordance with ITB 8. In case of any contradiction, documents obtained directly from the Purchaser shall prevail.

6.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents and to furnish with its Bid all information or documentation as is required by the Bidding Documents.

#### **7. Clarification of Bidding Documents**

7.1 A Bidder requiring any clarification of the Bidding Document shall contact the Purchaser in writing at the Purchaser's address **specified in the BDS**. The Purchaser will respond in writing to any request for clarification, provided that such request is received prior to the deadline for submission of bids within a period **specified in the BDS**. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Documents in accordance with ITB 6.3, including a description of the inquiry but without identifying its source. If so **specified in the BDS**, the Purchaser shall also promptly publish its response at the web page **identified in the BDS**. Should the clarification result in changes to the essential elements of the Bidding Documents, the Purchaser shall amend the Bidding Documents following the procedure under ITB 8 and ITB 22.2.

#### **8. Amendment of Bidding Document**

8.1 At any time prior to the deadline for submission of bids, the Purchaser may amend the Bidding Documents by issuing addenda.

8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained

the Bidding Documents from the Purchaser in accordance with ITB 6.3. The Purchaser shall also promptly publish the addendum on the Purchaser's web page in accordance with ITB 7.1.

- 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 bids, pursuant to ITB 22.2.

### **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 into 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) Letter of Bid in accordance with ITB 12;
  - (b) completed schedules, in accordance with ITB 12 and 14
  - (c) Bid Security or Bid-Securing Declaration, in accordance with ITB 19.1;
  - (d) alternative bids, if permissible, in accordance with ITB 13;
  - (e) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB 20.2;
  - (f) documentary evidence in accordance with ITB 17 establishing the Bidder's qualifications to perform the contract if its bid is accepted;
  - (g) documentary evidence in accordance with ITB 17 establishing the Bidder's eligibility to bid;
  - (h) documentary evidence in accordance with ITB 16, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
  - (i) documentary evidence in accordance with ITB 16 and 30, that the Goods and Related Services conform to the



## Bidding Documents;

- (j) any other document **required in the BDS.**
- 11.2 In addition to the requirements under ITB 11.1, bids submitted by a JV shall include a copy of the Joint Venture Agreement entered into by all members. Alternatively, a letter of intent to execute a Joint Venture Agreement in the event of a successful bid shall be signed by all members and submitted with the bid, together with a copy of the proposed Agreement.
- 11.3 The Bidder shall furnish in the Letter of Bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this Bid.
- 12. Letter of Bid and Price Schedules**
- 12.1. The Letter of Bid and Price Schedules shall be prepared using the relevant forms furnished in Section IV, Bidding Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 20.2. All blank spaces shall be filled in with the information requested.
- 13. Alternative Bids**
- 13.1. Unless otherwise **specified 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 Letter of Bid and in the Price Schedules shall conform to the requirements specified below.
- 14.2 All lots (contracts) and items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Letter of Bid in accordance with ITB 12.1 shall be the total price of the bid, excluding any discounts offered.
- 14.4 The Bidder shall quote any discounts and indicate the methodology for their application in the Letter of Bid, in accordance with ITB 12.1.
- 14.5 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 29. 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.
- 14.6 If so specified in ITB 1.1, bids are being invited for individual lots (contracts) or for any combination of lots (packages). Unless

otherwise **specified 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 discounts for the award of more than one Contract shall specify in their bid the price reductions applicable to each package, or alternatively, to individual Contracts within the package. Discounts shall be submitted in accordance with ITB 14.4 provided the bids for all lots (contracts) are opened at the same time.

14.7 The terms EXW, 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, **as specified in the BDS.**

14.8 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation 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. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country, in accordance with Section V, Eligible Countries. Similarly, the Bidder may obtain insurance services from any eligible country in accordance with Section V, Eligible Countries. Prices shall be entered in the following manner:

- (a) For Goods manufactured in 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 the Goods;
  - (ii) any Purchaser's Country sales tax and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
  - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) **specified in the BDS.**
- (b) For Goods manufactured outside the Purchaser's Country, to be imported:
  - (i) the price of the Goods, quoted CIP named place of destination, in the Purchaser's Country, **as specified in the BDS;**
  - (ii) the price for inland transportation, insurance, and

other local services required to convey the Goods from the named place of destination to their final destination (Project Site) **specified in the BDS;**

- (c) For Goods manufactured outside the Purchaser's Country, already imported:
  - (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
  - (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
  - (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
  - (iv) any Purchaser's Country sales and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
  - (v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) **specified in the BDS.**
- (d) for Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
  - (i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

**15. Currencies of Bid and Payment**

- 15.1 The currency(ies) of the bid and the currency(ies) of payments shall be **as specified in the BDS.** The Bidder shall quote in the currency of the Purchaser's Country the portion of the bid price that corresponds to expenditures incurred in the currency of the Purchaser's country, unless otherwise **specified in the BDS.**
- 15.2 The Bidder may express the bid price in any currency. If the 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 foreign currencies in addition to the currency of the Purchaser's Country.

**16. Documents Establishing the Eligibility**

- 16.1 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

- and Conformity of the Goods and Related Services**
- Section IV, Bidding Forms.
- 16.2 To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section VII, Schedule of Requirements.
- 16.3 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 the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Section VII, Schedule of Requirements.
- 16.4 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the Purchaser.
- 16.5 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section VII, Schedule of Requirements.
- 17. Documents Establishing the Eligibility and Qualifications of the Bidder**
- 17.1 To establish Bidder's their eligibility in accordance with ITB 4, Bidders shall complete the Letter of Bid, included in Section IV, Bidding Forms.
- 17.2 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Purchaser's satisfaction:
- (a) that, if **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;
- (b) that, if **required in the BDS**, in case of a Bidder not doing business within the Purchaser's Country, the Bidder is or will be (if awarded the contract) 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; and

- (c) that the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

#### **18. Period of Validity of Bids**

- 18.1. Bids shall remain valid for the period **specified in the BDS** after the bid submission deadline date prescribed by the Purchaser in accordance with ITB22.1. A bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 18.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 19, 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, except as provided in ITB 18.3.
- 18.3. If the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be determined as follows:
  - (a) In the case of fixed price contracts, the Contract price shall be the bid price adjusted by the factor **specified in the BDS**.
  - (b) In the case of adjustable price contracts, no adjustment shall be made.
  - (c) In any case, bid evaluation shall be based on the bid price without taking into consideration the applicable correction from those indicated above.

#### **19. Bid Security**

- 19.1. The Bidder shall furnish as part of its bid, either a Bid-Securing Declaration or a bid security, as **specified in the BDS**, in original form and, in the case of a bid security, in the amount and currency **specified in the BDS**.
- 19.2. A Bid Securing Declaration shall use the form included in Section IV, Bidding Forms.
- 19.3. If a bid security is specified pursuant to ITB 19.1, the bid security shall be a demand guarantee in any of the following forms at the Bidder's option :
  - (a) an unconditional guarantee issued by a bank or financial institution (such as an insurance, bonding or surety

company);

- (b) an irrevocable letter of credit;
- (c) a cashier's or certified check; or
- (d) another security **specified in the BDS**,

from a reputable source from an eligible country. If the unconditional guarantee is issued by a financial institution located outside the Purchaser's Country, the issuing financial institution shall have a correspondent financial institution located in the Purchaser's Country to make it enforceable. In the case of a bank guarantee, the bid security shall be submitted either using the Bid Security Form included in Section IV, Bidding Forms, or in another substantially similar format approved by the Purchaser prior to bid submission. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2.

- 19.4. If a Bid Security is specified pursuant to ITB 19.1, any bid not accompanied by a substantially responsive Bid Security shall be rejected by the Purchaser as non-responsive.
- 19.5. If a Bid Security is specified pursuant to ITB 19.1, the Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's signing the contract and furnishing the Performance Security pursuant to ITB 42.
- 19.6. The Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the contract and furnished the required performance security.
- 19.7. 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 Letter of Bid, or any extension thereto provided by the Bidder ; or
  - (b) if the successful Bidder fails to:
    - (i) sign the Contract in accordance with ITB41; or
    - (ii) furnish a performance security in accordance with ITB 42.
- 19.8. The bid security or 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 into a legally enforceable JV at the time of bidding, the bid security or Bid-Securing Declaration shall be in the names of all future members as named in the letter of intent

referred to in ITB 4.1 and ITB 11.2.

- 19.9. If a bid security is **not required in the BDS**, pursuant to ITB 19.1, and
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid, or
  - (b) if the successful Bidder fails to: sign the Contract in accordance with ITB41; or furnish a performance security in accordance with ITB 42;

the Principal Recipient/Purchaser may, **if provided for in the BDS**, declare the Bidder ineligible to be awarded a contract by the Purchaser for a period of time **as stated in the BDS**.

## 20. Format and Signing of Bid

- 20.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB 11 and clearly mark it "ORIGINAL." Alternative bids, if permitted in accordance with ITB 13, shall be clearly marked "ALTERNATIVE." 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.
- 20.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall consist of a written confirmation **as specified in the BDS** and shall be attached to the bid. The name and position held by each person signing the authorization must be typed or printed below the signature. All pages of the bid where entries or amendments have been made shall be signed or initialed by the person signing the bid.
- 20.3 In case the Bidder is a JV, the Bid shall be signed by an authorized representative of the JV on behalf of the JV, and so as to be legally binding on all the members as evidenced by a power of attorney signed by their legally authorized representatives.
- 20.4 Any inter-lineation, 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

## 21. Sealing and Marking of Bids

- 21.1. The Bidder shall enclose the original and all copies 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.
- 21.2. The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB 24.1;
- (c) bear the specific identification of this bidding process indicated in ITB1.1; and
- (d) bear a warning not to open before the time and date for bid opening.

21.3. 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.

## 22. Deadline for Submission of Bids

22.1. Bids must be received by the Purchaser at the address and no later than the date and time **specified in the BDS**. When so **specified in the BDS**, bidders shall have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures **specified in the BDS**.

22.2. The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents 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.

## 23. Late Bids

23.1. The Purchaser shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB 22. Any bid received by the Purchaser after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

## 24. Withdrawal, Substitution, and Modification of Bids

24.1. 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 (the power of attorney) in accordance with ITB 20.2, (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) prepared and submitted in accordance with ITB 20 and 21 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "WITHDRAWAL," "SUBSTITUTION," or "MODIFICATION;" and
- (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB 22.

24.2. Bids requested to be withdrawn in accordance with ITB 24.1 shall be returned unopened to the Bidders.



24.3. No bid may 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 Letter of Bid or any extension thereof.

## 25. Bid Opening

25.1. Except as in the cases specified in ITB 23 and 24, the Purchaser shall publicly open and read out in accordance with ITB25.3 all bids received by the deadline at the date, time and place **specified in the BDS** in the presence of Bidders 'designated representatives and anyone who choose to attend. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB 22.1, shall be as **specified in the BDS**.

25.2. First, envelopes marked "WITHDRAWAL" shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the "power of attorney" confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked "SUBSTITUTION" shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked "MODIFICATION" shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only bids that are opened and read out at Bid opening shall be considered further.

25.3. All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the total Bid Prices, per lot (contract) if applicable, including any discounts and alternative bids; the presence or absence of a Bid Security, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative bids read out at Bid opening shall be considered for evaluation. The Letter of Bid and the Price Schedules are to be initialed by representatives of the Purchaser attending bid opening in the manner **specified in the BDS**. The Purchaser shall neither discuss the merits of any bid nor reject any bid (except for late bids, in accordance with ITB 25.1).

25.4. 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 (contract) if applicable, including any discounts, and alternative bids; and the presence or absence of a Bid Security, if one was required. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders.

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

- 26. Confidentiality**
- 26.1 Information relating to the evaluation of bids and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with the bidding process until information on Contract Award is communication to all Bidders in accordance with ITB 40.
- 26.2 Any effort by a Bidder to influence the Purchaser in the evaluation or contract award decisions may result in the rejection of its Bid.
- 26.3 Notwithstanding ITB 26.2, 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.
- 27. Clarification of Bids**
- 27.1 To assist in the examination, evaluation, comparison of the bids, and qualification of the Bidders, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect 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, including any voluntary increase or decrease, 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 31.
- 27.2 If a Bidder does not provide clarifications of its bid by the date and time set in the Purchaser's request for clarification, its bid may be rejected.

- 28. Deviations, Reservations, and Omissions**
- 28.1 During the evaluation of bids, the following definitions apply:
- (a) “Deviation” is a departure from the requirements specified in the Bidding Documents;
  - (b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Documents; and
  - (c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Documents
- 29. Determination of Responsiveness**
- 29.1 The Purchaser’s determination of a bid’s responsiveness is to be based on the contents of the bid itself, as defined in ITB 11.
- 29.2 A substantially responsive Bid is one that meets the requirements of the Bidding Documents 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 the Contract; or
    - (ii) limit in any substantial way, inconsistent with the Bidding Documents, the Purchaser’s rights or the Bidder’s obligations under the Contract; or
  - (b) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 29.3 The Purchaser shall examine the technical aspects of the bid submitted in accordance with ITB 16 and ITB 17, in particular, to confirm that all requirements of Section VII, Schedule of Requirements have been met without any material deviation or reservation, or omission.
- 29.4 If a bid is not substantially responsive to the requirements of Bidding Documents, it shall be rejected by the Purchaser and may not subsequently be made responsive by correction of the material deviation, reservation, or omission.
- 30. Nonconformities, Errors and Omissions**
- 30.1 Provided that a Bid is substantially responsive, the Purchaser may waive any nonconformities in the Bid.
- 30.2 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. Such omission 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.

30.3 Provided that a bid is substantially responsive, the Purchaser shall rectify quantifiable nonmaterial nonconformities related to the Bid Price. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of a missing or non-conforming item or component.

### 31. Correction of Arithmetical Errors

31.1 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 line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item total 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 line item total as quoted shall govern and the unit price shall be corrected;
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

31.2 Bidders shall be requested to accept correction of arithmetical errors. Failure to accept the correction in accordance with ITB 31.1, shall result in the rejection of the Bid.

### 32. Conversion to Single Currency

32.1 For evaluation and comparison purposes, the currency(ies) of the Bid shall be converted in a single currency as **specified in the BDS.**

### 33. Margin of Preference

33.1 **Unless otherwise specified in the BDS,** a margin of preference shall not apply.

### 34. Evaluation of Bids

34.1 The Purchaser shall use the criteria and methodologies listed in this Clause. No other evaluation criteria or methodologies shall be permitted.

34.2 To evaluate a Bid, the Purchaser shall consider the following:

- (a) evaluation will be done for Items or Lots (contracts), as **specified in the BDS;** and the Bid Price as quoted in

- accordance with clause 14;
- (b) price adjustment for correction of arithmetic errors in accordance with ITB 31.1;
  - (c) price adjustment due to discounts offered in accordance with ITB 14.3;
  - (d) converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 32;
  - (e) price adjustment due to quantifiable nonmaterial nonconformities in accordance with ITB 30.3;
  - (f) the additional evaluation factors are specified in Section III, Evaluation and Qualification Criteria;
- 34.3 The estimated effect of the price adjustment provisions of the Conditions of Contract, applied over the period of execution of the Contract, shall not be taken into account in bid evaluation.
- 34.4 If these Bidding Documents allows Bidders to quote separate prices for different lots (contracts), the methodology to determine the lowest evaluated price of the lot (contract) combinations, including any discounts offered in the Letter of Bid Form, is specified in Section III, Evaluation and Qualification Criteria
- 34.5 The Purchaser's evaluation of a bid will exclude and not take into account:
- (a) in the case of Goods manufactured in the Purchaser's Country, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder;
  - (b) in the case of Goods manufactured outside the Purchaser's Country, already imported or to be imported, customs duties and other import taxes levied on the imported Good, sales and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder;
  - (c) any allowance for price adjustment during the period of execution of the contract, if provided in the bid.
- 34.6 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise **specified in the BDS** from amongst those set out in Section III, Evaluation and

Qualification Criteria. The criteria and methodologies to be used shall be as specified in ITB 34.2 (f).

- 35. Comparison of Bids** 35.1 The Purchaser shall compare the evaluated prices of all substantially responsive bids established in accordance with ITB 34.2 to determine the lowest evaluated bid. The comparison shall be on the basis of CIP (place of final destination) prices for imported goods and EXW prices, plus cost of inland transportation and insurance to place of destination, for goods manufactured within the Principal Recipient's country, together with prices for any required installation, training, commissioning and other services. The evaluation of prices shall not take into account custom duties and other taxes levied on imported goods quoted CIP and sales and similar taxes levied in connection with the sale or delivery of goods.
- 36. Qualification of the Bidder** 36.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid meets the qualifying criteria specified in Section III, Evaluation and Qualification Criteria.
- 36.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB 17.
- 36.3 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 qualifications to perform satisfactorily.
- 37. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 37.1 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 Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders.

## F. Award of Contract

- 38. Award Criteria** 38.1 Subject to ITB 37.1, the Purchaser shall award the Contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 39. Purchaser's Right to Vary Quantities at Time of Award** 39.1 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 VII, Schedule of Requirements, provided this does not exceed the percentages **specified in the BDS**, and without any change in the unit prices or other terms and conditions of the bid and the Bidding

Documents.

**40. Notification of Award**

40.1 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. The notification letter (hereinafter and in the Conditions of Contract and Contract Forms called the "Letter of Acceptance") shall specify the sum that the Purchaser will pay the Supplier in consideration of the supply of Goods (hereinafter and in the Conditions of Contract and Contract Forms called "the Contract Price"). At the same time, the Purchaser shall also notify all other Bidders of the results of the bidding and shall publish in *UNDB online* the results identifying the bid and lot (contract) 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 successful Bidder, and the Price it offered, as well as the duration and summary scope of the contract awarded.

40.2 Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.

40.3 The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after notification of award in accordance with ITB 40.1, requests in writing the grounds on which its bid was not selected.

**41. Signing of Contract**

41.1 Promptly after notification, the Purchaser shall send the successful Bidder the Contract Agreement.

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

41.3 Notwithstanding ITB 41.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided however, that the Bidder can demonstrate to the satisfaction of the Purchaser and of the Bank that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits,

authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

**42. Performance Security**

- 42.1 Within twenty eight (28) days of the receipt of notification of award from the Purchaser, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, subject to ITB 34.5, using for that purpose the Performance Security Form included in Section X, Contract Forms, or another Form acceptable to the Purchaser. If the Performance Security furnished by the successful Bidder is in the form of a bond, it shall be issued by a bonding or insurance company that has been determined by the successful Bidder to be acceptable to the Purchaser. A foreign institution providing a bond shall have a correspondent financial institution located in the Purchaser's Country.
- 42.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose bid is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.



## Section II. Bid Data Sheet (BDS)

The following specific data for the goods to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions herein shall prevail over those in ITB.

ITB Clause Reference	A. General
ITB 1.1	The reference number of the Invitation for Bids is : <b>SAMS/NACP/CD-4 Machine/07/2016</b>
ITB 1.1	<p><b>Name of Purchaser:</b></p> <p><b>National AIDS Control Organization (NACO)</b>  Ministry of Health &amp; Family Welfare, (Govt. of India)  6<sup>th</sup> &amp; 9<sup>th</sup> Floor, Chanderlok Building  36, Janpath, New Delhi - 110001</p> <p><b>Name of Authorized Procurement Agent:</b></p> <p><b>Strategic Alliance Management Services Pvt. Limited (SAMS)</b>  B01-B03, Vardhman Diamond Plaza, Community Centre,  D.B. Gupta Road, Paharganj,  New Delhi 110055, INDIA;  Phone: +91-7042697953, +91-7042697950, 011-43580626/7;  Email: <a href="mailto:bhutaniak@samsconsult.com">bhutaniak@samsconsult.com</a>; <a href="mailto:satyaverma68@gmail.com">satyaverma68@gmail.com</a></p> <p>SAMS will be handling the bidding process as well as signing the contracts for this IFB on behalf of the Purchaser. The Purchaser will exercise all rights and obligations through SAMS for the purpose of this bidding.</p>
ITB 1.1	<p>The name of the ICB is: <b>Procurement of CD4 POINT OF CARE (POC) MACHINE - Low Throughput</b></p> <p>The identification number: <b>SAMS/NACP/CD-4 Machine/07/2016</b> of the ICB is:</p> <p>The number and identification of lots (contracts) comprising this ICB is: <b>None</b></p>
ITB 2.1	<p><b>Name of the Principal Recipient:</b> <i>Department of Economic Affairs (DEA), Ministry of Finance, Govt. of India</i></p> <p><b>Name of Implementing Agency:</b> <i>National AIDS Control Organization (NACO), Ministry of Health &amp; Family Welfare, (Government of India.)</i></p> <p><b>Source of Financing</b> : <i>Grant received from The Global Fund to Fight AIDS, Tuberculosis and Malaria (GFATM)</i></p>

ITB 2.1	The name of the Project is: <b>National AIDS Control Programme Phase-IV (NACP-IV)</b>
ITB 4.1	Maximum number of members in the JV shall be: <b>Two</b>
IITB 4.4	A list of debarred firms and individuals is available on the Bank's external website: <a href="http://www.worldbank.org/debarr">http://www.worldbank.org/debarr</a> .
<b>B. Contents of Bidding Documents</b>	
ITB 7.1	<p>The Purchaser's address is:</p> <p><b>Strategic Alliance Management Services Pvt. Limited (SAMS)</b>  B01-B03, Vardhman Diamond Plaza, Community Centre,  D.B. Gupta Road, Paharganj,  New Delhi 110055, INDIA;  Phone: +91-7042697953, +91-7042697950, 011-43580626/7; Email:  <a href="mailto:bhutaniak@samsconsult.com">bhutaniak@samsconsult.com</a>; <a href="mailto:satyaverma68@gmail.com">satyaverma68@gmail.com</a></p> <p>Requests for clarification should be received by the SAMS by the date indicated in the notification.</p>
ITB 7.1	Web page: <a href="http://www.samsconsult.com">www.samsconsult.com</a> and <a href="http://www.naco.gov.in">www.naco.gov.in</a>
ITB 7.2	<p>Add the following as clause 7.2:</p> <p><b>Pre Bid meeting:</b> - The bidder or his official representatives is invited to attend a pre bid meeting as per details given in the notification.</p> <p style="padding-left: 40px;">Non-attendance at the pre bid meeting will not be a cause for disqualification of a bidder.</p> <p><b>Only authorized representative of prospective bidders may attend the pre-bid meeting.</b></p>
<b>C. Preparation of Bids</b>	
ITB 10.1	<p>The language of the bid is: <b>English</b></p> <p>All correspondence exchange shall be in <b>English</b> language.</p> <p>Language for translation of supporting documents and printed literature is <b>English</b></p>
ITB 11.1 (j)	<p>The Bidder shall submit the following additional documents in its bid:</p> <ol style="list-style-type: none"> <li>1. Certification of incorporation of the bidder and manufacturer.</li> <li>2. Legally valid joint venture agreement, if applicable, specifying the financial stakes of each of the joint venture partners.</li> <li>3. The list of spare parts recommended for specific operating requirement of each equipment for a period of 10 years giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing</li> </ol>

	<p>functioning of the goods for a period of ten years, following commencement of the use of the goods by the Purchaser.</p> <p>4. The following details shall also be provided by Indian Bidders:</p> <ol style="list-style-type: none"> <li>a. Name, address, PAN and Income Tax details (ward/circle where they are being assessed) of the Directors of the Bidding Company and Manufacturer.</li> <li>b. Company's PAN and Income Tax details and ward/circle where it is being assessed,</li> <li>c. Registration details of the company under VAT, local and Central taxes and duties, and other laws as may be applicable and also Sales Tax/VAT clearance certificate.</li> </ol> <p>5. The bidder shall disclose instances of previous past performance that may have resulted in adverse actions taken against the bidder in the last five years. Such adverse actions taken against the bidder may be treated as unsatisfactory performance history while deciding the award of contract. If no instance of previous past performance has resulted into adverse actions this should be clearly indicated in the Bidder's bid. The past performance of a bidder can be evaluated by the purchaser based on the feedback from the owners / users of the machines installed and in use in Purchaser's Country.</p>
<b>ITB 12.2</b>	<p><b>Insert new clause 12.2 as under:</b></p> <p>Bidders may note that bidders offering goods from within the country of the Purchaser [Group A and Group B bids] should indicate the prices entirely EXW (ex-works/ex-factory/ex-warehouse/ex-showroom/ or off-the-shelf as applicable). Bids offering supplies partly as ex-works and partly as CIP will be classified as Group C bid only.</p>
<b>ITB 13.1</b>	Alternative Bids <b>shall not be</b> considered.
<b>ITB 14.5</b>	The prices quoted by the Bidder <b>shall not</b> be subject to adjustment during the performance of the Contract.
<b>ITB 14.6</b>	Prices quoted for the item shall correspond at least to <b>100% (hundred percent)</b> percent of the quantities of goods and services specified for this item.
<b>ITB 14.7</b>	The Incoterms edition is: <b>2010</b>
<b>ITB 14.8 (a) (i)</b>	Insert the words "excise and other" in between the words "customs" and "duties" in Line 3 of this sub-clause. Insert the word "or VAT" in between the words "sales" and "and" in line 4 of this sub clause.
<b>ITB 14.8 (a) (ii)</b>	Insert the word "or VAT" in between the words "sales tax" and "and" in line 1 of this sub clause.
<b>ITB 14.8 (b) (i) and (c) (v)</b>	Place of Destination: <b>is as specified in Schedule of Requirements (Section VII). as per Incoterm used</b>

<b>ITB 14.8 (a) (iii);(b)(ii) and (c)(v)</b>	<p>“Final destination (Project Site)”: <b>is as specified in Schedule of Requirements (Section VII).</b></p> <p><b>The prices should include unloading at the final destination site/stores.</b></p>
<b>ITB 14.8 (b) (iv)</b>	<p>Insert the following new Sub-Clause 14.6 (b) (iv):</p> <p>“For Agents and service facilities in the Purchaser’s country.</p> <p>If a foreign bidder has engaged an agent in the purchaser’s country, the Agency commission payable to the Agent shall be indicated in the space provided in the price schedule. The bidder will also be required to give the following details in the bid:</p> <p>(i) the name and address of the local agent;</p> <p>(ii) what service the agent renders;</p> <p>(iii) the amount of remuneration for the agent included in the bid price.”</p>
<b>ITB 14.9</b>	<p>Add the following at the end of this Clause:</p> <p>Bidders may like to ascertain availability of Deemed Export or other Benefits. They are solely responsible for obtaining such benefits, which they have considered in their bid and in case of failure to receive such benefits for reasons whatsoever, the Purchaser will not compensate the bidder.</p> <p>Where the bidder has quoted taking into account such benefits, he must give all information required for issue of Project Authority/ Payment/Other Certificates in terms of the Import Export Policy or central excise notifications along with his bid in Form given in Section IV. The Project Authority / Payment/Other Certificates will be issued on this basis only and no subsequent change will be permitted.</p> <p>Bids which do not conform to this provision or any condition by the bidder which makes the bid subject to availability of deemed export benefits or compensation on withdrawal of or any variations to the deemed export benefits scheme, will be treated as non-responsive and rejected.”</p>
<b>ITB 15.1</b>	<p>The currency(ies) of the bid and the currency(ies) of payments shall be <b>same</b>.</p> <p>The Bidder <i>is</i> required to quote in the currency of the Purchaser’s Country the portion of the bid price that corresponds to expenditures incurred in Purchaser’s Country.</p>
<b>ITB 16.4</b>	<p>Period of time the Goods are expected to be functioning (for the purpose of spare parts): <b>10 (ten) years</b></p>
<b>ITB 17.2 (a)</b>	<p>Manufacturer’s authorization is: <b>required</b></p>
<b>ITB 17.2 (b)</b>	<p>After sales service is: <b>required.</b></p>
<b>ITB 18.1</b>	<p>The bid should be valid upto <b>21 Sept, 2016</b></p>

<b>ITB 18.3 (a)</b>	<p>The bid price shall be adjusted by the following factor(s):</p> <p>(a) The foreign currency component of the prices shall be increased by the factor (2% per annum) for each week, or part of a week, that has elapsed from the expiration of the initial bid validity to the date of notification of award to the successful Bidder.</p> <p>(b) Similarly, the local currency component of the price shall be increased by the factor (5 % per annum) for each week, or part of a week, that has elapsed from the expiration of the initial bid validity to the date of notification of award of the successful Bidder.</p> <p>(c) Bid evaluation will be based on the bid prices without taking into consideration the above correction.</p>
<b>ITB 19.1</b>	<p>A <i>Bid Security</i> <b>shall be</b> required.</p> <p>A Bid-Securing Declaration <b>shall not be</b> required.</p> <p>If a bid security shall be required in Indian rupees or in US Dollars. The amount of bid security required is specified in Section VII Schedule of Requirements.</p> <p><b>Please provide name and contact details of the concerned official of the issuing bank (mobile/email) for the purpose of verifying the authenticity of the bid security.</b></p>
<b>ITB 19.3</b>	<p>Replace the Clause ITB 19.3 with the following:</p> <p>The bid security shall, at the Bidder's option, be –</p> <p>(i) in the <b>form of a bank guarantee</b> and the named beneficiary shall be <b>Strategic Alliance Management Services Pvt. Ltd., New Delhi</b> The bank guarantee shall be issued by a bank located in the country of the Purchaser (Nationalized or Scheduled Bank in India) or by a foreign bank through a correspondent bank located in the country of the Purchaser (Nationalized or Scheduled Bank in India) having a branch in Delhi. The bank guarantee shall be in the format provided in the Bidding documents. The bid security shall be valid for twenty-eight (28) days beyond the original validity period of the bid, or beyond any period of extension if requested under ITB 18.2</p> <p>(ii) in the <b>form of a demand draft</b> from a reputable banking institution in favor of <b>“Strategic Alliance Management Services Pvt. Ltd, payable at New Delhi”</b>.</p> <p><b>Bid security in any other form will not be accepted and bid will be treated as non-responsive and rejected.</b></p>
<b>ITB 20.1</b>	<p>In addition to the original of the bid, the number of copies is: <b>One</b></p> <p><b><i>In addition scanned copy of the bid to be submitted in CD or pen-drive</i></b></p>

<b>ITB 20.2</b>	The written confirmation of authorization to sign on behalf of the Bidder shall consist of: <b>Authorization letter issued by competent authority on its official letter head or Resolution of Board or Power of Attorney</b>
<b>D. Submission and Opening of Bids</b>	
<b>ITB 22.1</b>	For <b><u>bid submission purposes:</u></b>  <b>The time, date and place of bid submission will be as per details given in the notification.</b> Bidders <b><i>shall not</i></b> have the option of submitting their bids electronically.
<b>ITB 25.1</b>	The bid opening shall take place as <b>per details given in the notification.</b>
<b>ITB 25.3</b>	The Letter of Bid and Price Schedules shall be initialed by all the representatives of the Purchaser conducting Bid opening.
<b>E. Evaluation and Comparison of Bids</b>	
<b>ITB 32.1</b>	The currency that shall be used for bid evaluation and comparison purposes to convert all bid prices expressed in various currencies into a single currency is: <b><i>Indian Rupees</i></b> The source of exchange rate shall be: Bill Selling Rate of State Bank of India, New Delhi in the date of bid opening.
<b>ITB 33.1</b>	A margin of domestic preference <b><i>shall NOT</i></b> apply.

<b>ITB 34.2(a)</b>	<p>Bids will be evaluated for each item and the Contract will comprise the item(s) awarded to the successful Bidder</p> <p>If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. An item not listed in the Price Schedule shall be assumed to be not included in the bid, and provided that the bid is substantially responsive, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison.</p>
<b>ITB 34.6</b>	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria:</p> <ul style="list-style-type: none"> <li>(a) Deviation in Delivery schedule: <b>No</b></li> <li>(b) Deviation in payment schedule: <b>No</b></li> <li>(c) the cost of major replacement components, mandatory spare parts, and service: <b>No</b></li> <li>(d) the availability in the Purchaser's Country of spare parts and after-sales services for the equipment offered in the bid <b>Yes (Methodology is given in Evaluation criteria, Section III)</b></li> <li>(e) the projected operating and maintenance costs during the life of the equipment <b>Yes (Methodology is given in Evaluation criteria, Section III)</b></li> <li>(f) the performance and productivity of the equipment offered; <b>No.</b></li> </ul>

	<b>F. Award of Contract</b>
<b>ITB 38.2</b>	Add following at the end of the clause: Before the award of contract, the purchaser may inspect the manufacturing facilities of the responsive bidders or their manufacturers to assess his capability to successfully perform the contract as per the terms and conditions specified in the bid document.
<b>ITB 39.1</b>	The maximum percentage by which quantities may be increased is: <b>25%</b> <b>(twenty five percent)</b> The maximum percentage by which quantities may be decreased is: <b>25%</b> <b>(twenty five percent)</b>



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

*This Section contains all the criteria that the Purchaser shall use to evaluate a bid and qualify the Bidders. in accordance with ITB 34 and ITB 36, no other factors, methods or criteria shall be used.*

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1. **Margin of Preference (ITB 33) - DELETED**

## 2. Evaluation (ITB 34)

### 2.1. Evaluation Criteria (ITB 34.6)

The Purchaser's evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Clause 14.8, one or more of the following factors as specified in ITB 34.2(f) and in BDS referring to ITB 34.6, using the following criteria and methodologies.

- (a) Delivery schedule. (as per Incoterms specified in the BDS)

**No deviation in the Delivery schedule is permitted**

- (b) Deviation in payment schedule. *[insert one of the following ]*

**No deviation in the Delivery schedule is permitted**

- (c) Cost of major replacement components, mandatory spare parts, and service.

**Deleted**

- (d) Availability in the Purchaser's Country of spare parts and after sales services for equipment offered in the bid.

**An adjustment equal to the cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in BDS 34.6, if quoted separately, shall be added to the bid price, for evaluation purposes only.**

- (e) Projected operating and maintenance costs.

An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes only, if specified in BDS 34.6. The adjustment will be evaluated in accordance with the methodology specified hereunder:

Cost of Reagents & Kits (including calibrators, controls, flow sheath, lancets, vacutainers pipettes, gouges, spirit gouges, bandages, covers etc. or any other consumables as needed to complete the sampling process) required for performing tests (as per projected requirement given below) for the period of (three) 3 years from the date machines are installed and made operational as quoted by the bidder will be added to the bid price for evaluation after discounting at the rate of 10% per year.

<b>Year (starting from the date equipment become operational)</b>	<b>Projected requirement (no. of tests per year for total quantity given in Schedule of Requirement) considering pack size of 1000 tests</b>
Year 1	85,000
Year 2	90,000
Year 3	100,000

In addition to the above, the bidders are required to quote unit rate of Reagents & Kits etc. as required above in the slabs of quantity in the table below along with the 'Price Schedule Forms; No. 7 [Price Schedule of Related Services Kits & Reagents]' given in the bidding document. These rates shall be used to place orders by the Purchaser as and when required during performance of the contract.

No. of Tests per year for total quantity given in the Schedule of Requirement	Year	Currency	Rate to be quoted by bidders			
			Pack Size (No. of Tests)			
			200	500	1000	2000
85,000	Year 1					
90,000	Year 2					
100,000	Year 3					

(f) Performance and productivity of the equipment: **Deleted**

(g) Specific additional criteria: **None**

**2.2. Multiple Contracts (ITB 34.4): Deleted**

**2.3. Alternative Bids (ITB 13.1): Deleted**

**3. Qualification (ITB 36)**

**3.1 Post qualification Requirements (ITB 36.1)**

After determining the lowest-evaluated bid in accordance with ITB 35.1, the Purchaser shall carry out the post qualification of the Bidder in accordance with ITB 36, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder's qualifications.

**(A) If Bidder is Manufacturer:**

(i) Financial Capability

The Bidder shall furnish documentary evidence that it meets the following financial requirement(s):

The bidders who are manufacturers should have achieved **average annual sales turnover** of **minimum of value** as mentioned against schedule in **Appendix A**, during any one of the **last five years** to qualify for the schedule.

(ii) Experience and Technical Capacity

The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s): *[list the requirement(s)]*

- a. The bidder must have supplied and provided after-sales services satisfactorily the specific Good to the extent of at least **50%** of the quantity indicated against the schedule under “Section – VII: Schedule of Requirements” **during any one of the last five calendar years**. The supply should have been made to end-users and not to the dealers/distributors. There should not be any adverse report regarding supplies for at last five years preceding the date of bid opening.
- b. The bidder should furnish the information on past supplies and satisfactory performance in the Performa given under Section-IV.
- c. Bidder shall invariably furnish documentary evidence (Client's certificate) in support of the satisfactory operation of the goods as specified above.
- d. The bidder shall furnish data to support that he has the financial and production capacity to perform the contract and complete the supplies within the stipulated delivery period.
- e. Further bidder should be in continuous business of manufacturing/ supply and after sales services of product similar to that specified in ‘Schedule of Requirement’ **during the last 5 years prior to bid opening**.
- f. The documentary evidence of the Bidder's eligibility to bid shall establish to the Purchaser's satisfaction that the Bidder, at the time of submission of its bid, is from an eligible country as defined under ITB Clause 4.
- g. The legal status, place of registration and principal place of business of the company or firm or partnership, etc.;
- h. Details of experience and past performance of the bidder on product offered and on those of similar nature within the past five years and details of current contracts in hand and other commitments (suggested Performa given in Section IV).
- i. The Bidder should furnish a brief write-up, backed with adequate data, explaining his available capacity and experience (both technical and commercial) for the manufacture and supply of the required Goods within the specified time of completion after the meeting all their current commitments.
- j. The bidder should clearly confirm that all the facilities exist in his factory for inspection and testing and these will be made available to the purchaser or his representative for inspection.

- k. Reports on financial standing of the bidder such as profit and loss statements, balance sheets and auditors report for the past three years, bankers certificate, etc.

**B) Non- Manufacturer Bidders**

In the case of a Bidder offering to supply Goods under the Contract that the Bidder does not manufacture or otherwise produce, the Bidder should be duly authorized by the manufacturer of the Goods **who meets the criteria under (A) above** (all supporting documents/information as asked above for manufacturer shall be submitted with the bid) and:

- (a) The manufacturer furnishes a legally enforceable authorization in the prescribed Form [Section IV] assuring full guarantee and warranty obligations as per GCC and SCC for the goods offered; and
- (b) The bidders, as authorized by the manufacturers, has supplied and provided after sales service to the extent of at least of **20%** of the quantities indicated against each schedule specified in the "Section-VI: Schedule of Requirements" **during any one of the last five calendar years**. The supply should have been made to end-users and not to the dealers/distributors.
- (c) The bidder should have generated an **average annual sales turnover of minimum of 20% of the value** as mentioned against schedule in **Appendix A**, during the **last five years** to qualify for the schedule. The bidder will also submit the reports on financial standing of the bidder such as profit and loss statements, balance sheets and auditors report for the **past five years**, banker's certificate, etc.

**For Both (A) and (B)**

**Additional Qualification requirements:**

The bidder shall provide an undertaking that:-

- a) The proprietor/promoter/director of the firm, its employee, partner or representative is not convicted by a court of law following prosecution for offence involving moral turpitude in relation to business dealings including malpractices such as bribery, corruption, fraud, substitution of bids, interpolation, misrepresentation, evasion, or habitual default in payment of tax levied by law; etc.
- b) The firm employs an ex/on leave-government servant, the person should not have been involved/suspended/ dismissed or removed on account of corruption".
- c) "The bidder and the manufacturer whose product is offered by the bidder shall disclose instance of previous past performance of his and the manufacturer whose product is offered by the bidder, that may have resulted into debarment / blacklisting by MOHFW, GOI, or any Central Govt. Department or State Government which is still effective on the date of opening of bid. Such debarment / blacklisting which is still effective on the date of opening of bid will make the bidder ineligible to participate in this bidding process. If no debarment / blacklisting has been done against the

Bidder, the bidder must provide an undertaking that the bidder and the manufacturer whose product is offered by the bidder is not debarred / blacklisted by MOHFW, GOI, or any Central Govt. Department or State Government which is still effective on the date of opening of bid. The bidder will also disclose immediately any such debarment / blacklisting which takes place after opening of bid and before issue of NOA, to the purchaser.

- c) Details of Persons that SAMS may contact for requests for clarification during bid evaluation:
  - i. Name:**
  - ii. Designation:**
  - iii. Tel number (direct):**
  - iv. Email address**
- d) The Bank details from where the Bank Guarantee has been issued along with Phone, fax numbers and email IDs. For Banks from outside India the details of the correspondent Bank in India.
- e) An agent submitting a bid in its own name will be treated as a non-manufacturer bidder.
- f) The bidders are advised to complete the Checklist given in Annexure I and submit it along with the Bid. It is essential that Bidders review carefully this Checklist to ensure that their Bid is complete and includes all required information.
- g) Even though the bidders meet the above qualifying criteria, they are subject to be disqualified if they have made misleading or false representations in the forms, statements and attachments submitted in proof of the qualification requirements; and/or record of poor performance such as, not properly completing the contract, inordinate delays in completion, litigation history, or financial failures etc.
  - i) The bidder and the manufacturer whose product is offered by the bidder shall disclose instances of previous past performance that may have resulted into adverse action taken against the bidder or the manufacturer whose product is offered by the bidder during the last five years. Such adverse actions taken against the bidder or manufacturer may be treated as unsatisfactory performance history while deciding the award of contract. If no adverse action has been taken against the bidder, the bidder must provide a statement in its bid saying that there has been no such previous past performance resulting in adverse actions being taken against him. The past performance of a bidder can be evaluated by the purchaser based on the feedback from the owners / users of the machines installed and in use in Purchaser's Country

**Appendix 'A'**

<b>Item No</b>	<b>Minimum value of annual sales turnover (In Million Indian Rupees or equivalent)</b>
I	350.00



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## Section IV. Bidding Forms

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## Letter of Bid

*The Bidder must prepare the Letter of Bid on its letterhead clearly showing the Bidder's complete name and address.*

***Note: All italicized text is for use in preparing these forms and shall be deleted from the final products.***

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

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

Invitation for Bid No.: **[insert identification]**

To: ***[insert complete name of Purchaser]***

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda issued in accordance with Instructions to Bidders (ITB 8);
- (b) We meet the eligibility requirements and have no conflict of interest in accordance with ITB 4;
- (c) We have not been suspended nor declared ineligible by the Purchaser based on execution of a Bid Securing Declaration in the Purchaser's country in accordance with ITB 4.6
- (d) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods: **[insert a brief description of the Goods and Related Services]**;
- (e) The total price of our Bid, excluding any discounts offered in item (f) below is:
  1. Price of the goods and related services as per technical specifications given in the Bid Document **[insert the total price of the bid in words and figures, indicating the various amounts and the respective currencies]**;
  2. Total price of performance and maintenance including i.e. kit and consumables etc. for performing 1 million tests per year for 5 years for total quantity of the goods specified in the Schedule of Requirements: **[insert the total price of the bid in words and figures, indicating the various amounts and the respective currencies]**;
- (f) The discounts offered and the methodology for their application are:
  - (i) The discounts offered are: [Specify in detail each discount offered.]

- (ii) The exact method of calculations to determine the net price after application of discounts is shown below:**Specify in detail the method that shall be used to apply the discounts;**
- (g) 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 Documents, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (h) If our bid is accepted, we commit to obtain a performance security in accordance with the Bidding Documents;
- (i) We are not participating, as a Bidder or as a subcontractor, in more than one bid in this bidding process in accordance with ITB 4.2(e), other than alternative bids submitted in accordance with ITB 13;
- (j) We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to, a temporary suspension or a debarment imposed by a member of the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the Employer's country laws or official regulations or pursuant to a decision of the United Nations Security Council;
- (k) We are not a government owned entity/ We are a government owned entity but meet the requirements of ITB 4.5;<sup>1</sup>
- (l) We have paid, or will pay the following commissions, gratuities, or fees 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 paid and the amount and currency of each such commission or gratuity]**

Name of Recipient	Address	Reason	Amount

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

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<sup>1</sup>*Bidder to use as appropriate*

- (m) 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; and
- (n) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
- (o) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any type of fraud and corruption

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

Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* **[insert complete name of person duly authorized to sign the Bid]**

Title of the person signing the Bid **[insert complete title of the person signing the Bid]**

Signature of the person named above           **[insert signature of person whose name and capacity are shown above]**

Date signed   **[insert date of signing]** day of **[insert month]**, **[insert year]**

\*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder

\*\* : Person signing the Bid shall have the power of attorney given by the Bidder to be attached with the Bid Schedules.

## Bidder Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. No alterations to its format shall be permitted and no substitutions shall be accepted.]*

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

Page \_\_\_\_\_ of \_\_\_\_\_ pages

1. Bidder's Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each member : <i>[insert legal name of each member in JV]</i>
3. Bidder's actual or intended country of registration: <i>[insert actual or intended country of registration]</i>
4. Bidder's year of registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Address in country of registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information  Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i>  <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or documents of registration of the legal entity named above, in accordance with ITB 4.3.  <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB 4.1.  <input type="checkbox"/> In case of Government-owned enterprise or institution, in accordance with ITB 4.5 documents establishing: <ul style="list-style-type: none"> <li>• Legal and financial autonomy</li> </ul>

- Operation under commercial law
  - Establishing that the Bidder is not dependent agency of the Purchaser
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Bidder's JV Members Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. The following table shall be filled in for the Bidder and for each member of a Joint Venture]].*

Date: *[insert date (as day, month and year) of Bid Submission]*  
ICB No.: *[insert number of bidding process]*

1. Bidder's Name: <i>[insert Bidder's legal name]</i>
2. Bidder's JV Member's name: <i>[insert JV's Member legal name]</i>
3. Bidder's JV Member's country of registration: <i>[insert JV's Member country of registration]</i>
4. Bidder's JV Member's year of registration: <i>[insert JV's Member year of registration]</i>
5. Bidder's JV Member's legal address in country of registration: <i>[insert JV's Member legal address in country of registration]</i>
6. Bidder's JV Member's authorized representative information Name: <i>[insert name of JV's Member authorized representative]</i> Address: <i>[insert address of JV's Member authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Member authorized representative]</i> Email Address: <i>[insert email address of JV's Member authorized representative]</i>
7. Attached are copies of original documents of <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation (or equivalent documents of constitution or association), and/or registration documents of the legal entity named above, in accordance with ITB 4.3. <input type="checkbox"/> In case of a Government-owned enterprise or institution, documents establishing legal and financial autonomy, operation in accordance with commercial law, and absence of dependent status, in accordance with ITB 4.5.
2. Included are the organizational chart, a list of Board of Directors, and the beneficial ownership.

## Price Schedule Forms

*[The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line 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 Requirements.]*



## Price Schedule: Goods Manufactured Outside the Purchaser's Country, to be Imported

(Group C bids, goods to be imported)  Currencies in accordance with ITB 15	Date: _____  ICB No: _____
----------------------------------------------------------------------------------	----------------------------------

1	2	3	4	5	6	7	8	9	10	11
Line Item N°	Description of Goods	Country of Origin	Delivery as per delivery schedule	Quantity and physical unit	Unit price CIP <i>[insert place of destination]</i> in accordance with ITB 14.8(b)(i)	CIP Price per line item (Col. 5x6)	Price per line item for inland transportation and other services required in the Purchaser's country to convey the Goods to their final destination specified in BDS	Total Price per Line item (Col. 7+8)	Duties payable if contract is awarded	SalesTax/ VAT & other state levies-payable if contract is awarded
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price CIP per unit]</i>	<i>[insert total CIP price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert total price of the line item]</i>	<i>[insert percentage of duties payable per line item]</i>	<i>[insert percentage of taxes payable per line item]</i>

Name of Bidder <i>[insert complete name of Bidder]</i>	Total Price	
--------------------------------------------------------	-------------	--

Signature of Bidder *[signature of person signing the Bid]* Date *[Insert Date]*

			(Group B bids, Goods already imported)						Date: _____ ICB No: _____			
			Currencies in accordance with ITB 15						Page N° ____ of ____			
1	2	3	4	5	6	7	8	9	10	11	12	13

Line Item N°	Description of Goods	Country of Origin	Delivery as per delivery schedule	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid, in accordance with ITB 14.8(c)(i)	Custom Duties and Import Taxes paid per unit in accordance with ITB 14.8(c)(ii) , [to be supported by documents]	Unit Price net of custom duties and import taxes, in accordance with ITB 148 (c) (iii) (Col. 6 minus Col.7)	Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITB 14.8(c)(i) (Col. 5×8)	Excise duty/custom duty payable if contract is awarded	SalesTax/ VAT & other state levies-payable if contract is awarded (in accordance with ITB 14.8(c)(iv)	Price per line item for inland transportation and other services required in the Purchaser's country to convey the goods to their final destination, as specified in BDS in accordance with ITB 14.8 (c)(v)	Total Price per line item (Col. 9+12)
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per unit]</i>	<i>[insert custom duties and taxes paid per unit]</i>	<i>[insert unit price net of custom duties and import taxes]</i>	<i>[insert price per line item net of custom duties and import taxes]</i>	<i>[insert percentage of duties &amp; taxes payable per line item]</i>	<i>[insert SalesTax/ VAT &amp; other state levies-payable if contract is awarded]</i>	<i>[insert price per line item for inland transportation and other services required in the Purchaser's country]</i>	<i>[insert total price per line item]</i>
										<b>Total Price</b>		

Name of Bidder *[insert complete name of Bidder]*

Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

*\* [For previously imported Goods, the quoted price shall be distinguishable from the original import value of these Goods declared to customs and shall include any rebate or mark-up of the local agent or representative and all local costs except import duties and taxes, which have been and/or have to be paid by the Purchaser. For clarity the bidders are asked to quote the price including import duties, and additionally to provide the import duties and the price net of import duties which is the difference of those values.]*

## Price Schedule: Goods Manufactured in the Purchaser's Country

Purchaser's Country <hr style="width: 20%; margin: 0 auto;"/>				(Group A bids) Currencies in accordance with ITB 15						
1	2	3	4	5	6	7	8	9	10	11
Line Item N°	Description of Goods	Delivery as per delivery schedule	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4×5)	Excise duty payable, if contract is awarded	Sales/VAT and other state taxes/ levies payable per line item if Contract is awarded (in accordance with ITB 14.8(a)(ii))	Price per line item for inland transportation and other services required in the Purchaser's Country to convey the Goods to their final destination	Cost of local labor, raw materials and components from with origin in the Purchaser's Country % of Col. 5	Total Price per line item (Col. 6+7)
<i>[insert number of the item]</i>	<i>[insert name of Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert EXW unit price]</i>	<i>[insert total EXW price per line item]</i>	<i>[insert percentage of duties &amp; taxes payable per line item]</i>	<i>[insert sales and other taxes payable per line item if Contract is awarded]</i>	<i>[insert the corresponding price per line item]</i>	<i>[Insert cost of local labor, raw material and components from within the Purchase's country as a % of the EXW price per line item]</i>	<i>[insert total price per item]</i>
								Total Price		

Name of Bidder *[insert complete name of Bidder]*

Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

*Note: (a) In case of discrepancy between unit price and total price, the unit price shall prevail.*

*(b) For column 8, break-up of the cost of labour, raw materials and components provided from within India should also be indicated separately as specified in Clause 35.1 of Instruction to Bidders..*

*(c) If the bidder is planning to avail excise duty exemption, kindly do not fill-up excise duty in column 5[b]. Excise Duty, if mentioned above, will be taken in to account while evaluating the bids and the Purchaser will not issue excise exemption certificate in such cases (or if the bid price is "inclusive of excise duty"). If the bid price mentions "exclusive of excise duty" or "excise duty extra", the purchaser will add the excise duty based on applicable rate during the evaluation of bids and will not issue the excise exemption certificate. VAT or sales tax, if payable, will not be taken in to consideration for evaluation purpose*

## Price Schedule of Related Services (Reagents & Kits)

(Common to imported and domestic goods)

Sr. No.	Item Description	Annual estimated requirement of No. of Tests for 75 Nos. of CD4 POC Machine	Currency	Rate to be quoted by bidders (inclusive of all taxes and duties) at delivery at consignee locations				Total Value (C x G)
				Pack size (No. of Tests/ pack)				
				200	500	1000	2000	
A	B	C	D	E	F	G	H	I
1	Reagents and Kits for 1 <sup>st</sup> Year	85,000						
2	Reagents and Kits for 2 <sup>nd</sup> Year	90,000						
3	Reagents and Kits for 3 <sup>rd</sup> Year	100,000						

**Note:**

1. For the purpose of evaluation of bids as per Section III. Evaluation and Qualification Criteria, the unit rate quoted by the bidder **for pack size of 1000 test** shall be used.
2. This Form shall be integral Part of the Price schedule.
3. Bidders shall quote firm rate for all five years, failing which the bids shall be considered as non-responsive.

Name of Bidder *[insert complete name of Bidder]*

Signature of Bidder *[signature of person signing the Bid]* Date *[insert date]*

## Form of Bid Security

### (Bank Guarantee)

*[The bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]*

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[Purchaser to insert its name and address]*

**IFB No.:** *[Purchaser to insert reference number for the Invitation for Bids]*

**Date:** *[Insert date of issue]*

**BID GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that \_\_\_\_\_ *[insert name of the Bidder, which in the case of a joint venture shall be the name of the joint venture (whether legally constituted or prospective) or the names of all members thereof]* (hereinafter called "the Applicant") has submitted or will submit to the Beneficiary its bid (hereinafter called "the Bid") for the execution of \_\_\_\_\_ under Invitation for Bids No. \_\_\_\_\_ ("the IFB").

Furthermore, we understand that, according to the Beneficiary's conditions, bids must be supported by a bid guarantee.

At the request of the Applicant, we, as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of \_\_\_\_\_ (\_\_\_\_\_) upon receipt by us of the Beneficiary's complying demand, supported by the Beneficiary's statement, whether in the demand itself or a separate signed document accompanying or identifying the demand, stating that either the Applicant:

- (a) has withdrawn its Bid during the period of bid validity set forth in the Applicant's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Applicant; or
- (b) having been notified of the acceptance of its Bid by the Beneficiary during the Bid Validity Period or any extension thereto provided by the Applicant, (i) has failed to execute the contract agreement, or (ii) has failed to furnish the

performance security, in accordance with the Instructions to Bidders (“ITB”) of the Beneficiary’s bidding document.

This guarantee will expire: (a) if the Applicant is the successful bidder, upon our receipt of copies of the contract agreement signed by the Applicant and the performance security issued to the Beneficiary in relation to such contract agreement; or (b) if the Applicant is not the successful bidder, upon the earlier of (i) our receipt of a copy of the Beneficiary’s notification to the Applicant of the results of the bidding process; or (ii) twenty-eight days after the end of the Bid Validity Period.

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

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758.

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*[Signature(s)]*

***Note: All italicized text is for use in preparing this form and shall be deleted from the final product.***

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## Form of Bid Security (Bid Bond)

[The Surety shall fill in this Bid Bond Form in accordance with the instructions indicated.]

**DELETED**

BOND NO. \_\_\_\_\_

~~BY THIS BOND [name of Bidder] as Principal (hereinafter called "the Principal"), and [name, legal title, and address of surety], authorized to transact business in [name of country of Purchaser], as Surety (hereinafter called "the Surety"), are held and firmly bound unto [name of Purchaser] as Obligee (hereinafter called "the Purchaser") in the sum of [amount of Bond]<sup>2</sup> [amount in words], for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.~~

~~WHEREAS the Principal has submitted or will submit a written Bid to the Purchaser dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the supply of [name of Contract] (hereinafter called the "Bid").~~

~~NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:~~

- ~~(a) has withdrawn its Bid during the period of bid validity set forth in the Principal's Letter of Bid ("the Bid Validity Period"), or any extension thereto provided by the Principal; or~~
- ~~(b) having been notified of the acceptance of its Bid by the Purchaser during the Bid Validity Period or any extension thereto provided by the Principal; (i) failed to execute the contract agreement; or (ii) has failed to furnish the Performance Security, in accordance with the Instructions to Bidders ("ITB") of the Purchaser's bidding document.~~

~~then the Surety undertakes to immediately pay to the Purchaser up to the above amount upon receipt of the Purchaser's first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.~~

~~The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the Bid Validity Period set forth in the Principal's Letter of Bid or any extension thereto provided by the Principal.~~

<sup>2</sup> The amount of the Bond shall be denominated in the currency of the Purchaser's country or the equivalent amount in a freely convertible currency.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Principal: \_\_\_\_\_ Surety: \_\_\_\_\_

\_\_\_\_\_  
Corporate Seal (where appropriate)

\_\_\_\_\_

\_\_\_\_\_

=  
(Signature) \_\_\_\_\_ (Signature)  
(Printed name and title) \_\_\_\_\_ (Printed name and title)

## Form of Bid-Securing Declaration

[The Bidder shall fill in this Form in accordance with the instructions indicated.]

**DELETED**

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

Bid No.: [number of bidding process]

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

To: [complete name of Purchaser]

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 Purchaser for the period of time of [number of months or years] starting on [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 Letter of Bid; or~~
- ~~(b) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, (i) fail or refuse to execute the Contract; or (ii) fail or refuse to furnish the Performance Security, if required, 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.~~

Name of the Bidder\* \_\_\_\_\_

Name of the person duly authorized to sign the Bid on behalf of the Bidder\*\* \_\_\_\_\_

Title of the person signing the Bid \_\_\_\_\_

Signature of the person named above \_\_\_\_\_

Date signed \_\_\_\_\_ day of

\_\_\_\_\_, \_\_\_\_\_

~~\*: In the case of the Bid submitted by joint venture specify the name of the Joint Venture as Bidder~~

~~\*\*: Person signing the Bid shall have the power of attorney given by the Bidder attached to the Bid~~

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

## Manufacturer's Authorization

*[The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization should be on the letterhead of the Manufacturer and 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**.]*

Date: *[insert date (as day, month and year) of Bid Submission]*  
ICB No.: *[insert number of bidding process]*

To: *[insert complete name of Purchaser]*

### 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 of Contract, 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]*

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

## Declaration regarding Deemed Export Benefits

(Bidder's Name and Address):

To:.....  
(Name of the Purchaser)

Dear Sir:

1. We confirm that we are solely responsible for obtaining deemed export benefits which we have considered in our bid and in case of failure to receive such benefits for reasons whatsoever, Purchaser will not compensate us.
  
2. We are furnishing below the information required by the Purchaser for issue of Project Authority/ Payment certificate in terms of the Export and Import Policy of the Government of India:

- |     |       |                                                                                           |                                                 |
|-----|-------|-------------------------------------------------------------------------------------------|-------------------------------------------------|
| (A) | (i)   | Value of import content of supply to be made by the Bidder:                               | *Rs. _____<br>(exchange rate one US\$ = Rs____) |
| (B) | (i)   | Name of the sub-contractor, if any, and whose name is to be included in the main contract | _____<br>_____<br>_____                         |
|     | (ii)  | Description, quantity and value of the goods to be supplied by the above sub-contractor   | Description<br>Quantity<br>Value (Rs.)          |
|     | (iii) | Value of import content of supply to be made by the sub-contractor                        | Rs.<br>_____<br>(exchange rate on US\$ = Rs.)   |
- (The requirements listed above are as per current Export and Import Policy of Government of India. These may be modified, if necessary, in terms of the Export and Import Policy in force.)*

Date: \_\_\_\_\_ (Signature) \_\_\_\_\_

(Printed Name) \_\_\_\_\_

Place: \_\_\_\_\_

(Designation) \_\_\_\_\_

(Common Seal) \_\_\_\_\_

\* Please attach details items-wise with cost

## Proforma for Performance Statement (for a period of last five years)

Bid No. \_\_\_\_\_ Date of opening \_\_\_\_\_ Time \_\_\_\_\_ Hours \_\_\_\_\_

Name of the Firm \_\_\_\_\_

Order placed by (full address of Purchaser)	Order No. and Date	Description and quantity of ordered goods	Value of order	Date of completion of delivery		Remarks indicating reasons for late delivery, if any	Has the supply of goods been satisfactory performance?*
				As per contract	Actual		
1	2	3	4	5	6	7	8

Signature and seal of the Bidder \_\_\_\_\_

The Bidder shall also furnish the following documents in connection with their past performance:

**For supplies within India & for Exports**

- a. For supplies made to public sector units in India, an Affidavit confirming that the performance statement given is correct.
- b. However in case of supplies to private sector units, an affidavit confirming that the performance statement is correct alongwith following supporting evidence.
  - i. Copy of Purchase Orders
  - ii. Copy of Invoices
  - iii. Proof of Payment received from Purchasers
  - iv. Documentary evidence (Client's certificate) in support of satisfactory completion of contract



## Proforma for Other Details of Bidder, Manufacturer and its Bank

1. Name & full address of the Manufacturer:

2. (a) Telephone & Fax No Office /Works  
 (b) Telex No. Office/Works  
 (c) Telegraphic address:  
 (d) Email

3. Location of the manufacturing factory.

4. Name & full address of the Bidder

5. (a) Telephone/Mobile & Fax No Office/Factory/Works  
 (b) Telex No. Office/Works  
 (c) Telegraphic address:  
 (d) Email

6. Details of two Persons that SAMS Ltd. may contact for requests for clarification during bid evaluation:

	1 <sup>st</sup>	2 <sup>nd</sup>
(i) Name:		
(ii) Tel number (direct):		
(iii) Mobile No.		
(iv) Email address		

7. Bank details from where the Bank Guarantee for Bid Security has been issued:

- (i) Name and address of the Bank:  
 (ii) For a foreign bank, name of correspondent Bank in India:  
 (iii) Name of the contact Person  
 (iv) Phone number/Mobile  
 (v) Fax Number  
 (vi) Email address

**Signature and seal of the Bidder**

## CHECKLIST

**(All the pages of the bid should be Serial Numbered & signed/initialled)**

SI. No.	Activity	Yes/No/NA	Page No. in the Bid
1	(a)	Bid Security for required amount	
	(b)	Bid Security in the form of	
	(i)	<i>Bank Guarantee as per format in Bidding document</i>	
	(ii)	<i>Draft or Banker's cheque issued by Nationalised bank</i>	
	(c)	Validity Date of Bid Security ( <b>Valid upto 28 days beyond the bids validity as specified in ITB clause 20.1</b> )	
	(d)	Amendment in Bid Security ( if any)	
2		<b>Contact details of the issuing bank for the purpose of verifying the authenticity of the bid security</b>	
3	(a)	Bid Form duly signed	
	(b)	Power of Attorney in favour of the signatory	
4	(a)	<b>Availing Deemed Export benefits?</b>	
	(b)	<b>Form of Declaration regarding Deemed Export</b>	
5		<b>Documents establishing post qualification (SECTION : III)</b>	
	(a)	Certificate of incorporation of Manufacturer	
	(b)	Documentary proof that bidder is in continuous business of manufacturing/supplying of Equipment during the last 5year prior to bid opening	
	(c)	Performance statement as per required Proforma, along with copies of purchase order, invoice, payment and clients certificate	
	(d)	Documents to support that bidder has an established quality programme	
	(e)	Documents to support that bidder has requisite inspection facilities	
	(f)	Certificate by auditor of average turnover for last 5 (five) fiscal years	
	(g)	Copies of balance sheet & Profit & Loss statement and others financial documents (please specify) certified by the auditor for specified fiscal years	
6		Documents defining the constitution or legal status, place of registration, and principal place of business; <b>written power of attorney</b> of the signatory of the Bid to commit the Bidder	

Sl. No.	Activity	Yes/No/NA	Page No. in the Bid
7	Disclosure about any adverse past performance instance of debarment/blacklisting etc		
8	A write-up on your production capabilities		
9	Legally valid joint venture Agreement for joint venture company, if applicable		
10	Technical compliance statement on bid technical specification including para wise comments.		
11	(a) Agreement with all terms and condition of the bid document		
	(b) If no, have you indicated deviations		
12	(a) Mentioned Price in the appropriate Proforma		
	(b) Conditional or unconditional discount mentioned in the bid (if any)		
13	Undertaking that proprietor/ director/ employee etc of the bidder has not been convicted by a court of a law and firm does not employ a government servant dismissed/ removed on account of corruption		
14	Undertaking that the bidder and the manufacturer whose product is offered by the bidder shall disclose instance of previous past performance of his and the manufacturer whose product is offered by the bidder, that may have resulted into debarment / blacklisting by MOHFW, GOI, or any Central Govt. Department or State Government which is still effective on the date of opening of bid. The bidder will also disclose immediately any such debarment / blacklisting which takes place after opening of bid and before issue of NOA, to the purchaser		



## **Section V. Eligible Countries**

### **Eligibility for the Provision of Goods, Works and Non Consulting Services in Bank-Financed Procurement**

In reference to ITB 4.7 and 5.1, for the information of the Bidders, at the present time firms, goods and services from the following countries are excluded from this bidding process:

Under ITB 4.7(a) and 5.1: *None*

Under ITB 4.7(b) and 5.1: *None*



## Section VI. Bank Policy - Corrupt and Fraudulent Practices

Guidelines for Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Principal Recipients, dated January 2011.

### “Fraud and Corruption:

1.16 It is the Bank’s policy to require that Principal Recipients (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts.<sup>3</sup> In pursuance of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;<sup>4</sup>
  - (ii) “fraudulent practice” is 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;<sup>5</sup>
  - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;<sup>6</sup>
  - (iv) “coercive practice” is 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;<sup>7</sup>
  - (v) “obstructive practice” is:

<sup>3</sup> In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

<sup>4</sup> For the purpose of this sub-paragraph, “*another party*” refers to a public official acting in relation to the procurement process or contract execution. In this context, “*public official*” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

<sup>5</sup> For the purpose of this sub-paragraph, “*party*” refers to a public official; the terms “*benefit*” and “*obligation*” relate to the procurement process or contract execution; and the “*act or omission*” is intended to influence the procurement process or contract execution.

<sup>6</sup> For the purpose of this sub-paragraph, “*parties*” refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other’s bid prices or other conditions.

<sup>7</sup> For the purpose of this sub-paragraph, “*party*” refers to a participant in the procurement process or contract execution.

- (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (bb) acts intended to materially impede the exercise of the Bank's inspection and audit rights provided for under paragraph 1.16(e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare mis-procurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Principal Recipient or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Principal Recipient having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank's sanctions procedures,<sup>8</sup> including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated<sup>9</sup>;
- (e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank."

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<sup>8</sup> A firm or individual may be declared ineligible to be awarded a Bank financed contract upon: (i) completion of the Bank's sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines.

<sup>9</sup> A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Principal Recipient.



## **PART 2 – Supply Requirements**

# Section VII. Schedule of Requirements

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## 1. List of Goods and Delivery Schedule

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Item No.	Name of the Equipment	Quantity	Bid security in INR	Bid Security in US\$
I	CD-4 Point of Care Machine - Low Throughput (capable of performing minimum 10 tests/ 8 hours)	75	21,00,000	32,000

### Delivery Schedule

For Group A, B and C bidders: **Full quantity within 90 days of date of Notification of award as per consignee distribution list.**

### Terms of Delivery

For Group 'A', 'B' & 'C' Bidders: **CIP- Final Place of Destination Site(s) as per Annexure-A below, including unloading and shifting of equipment in the designated laboratories.**

**Annexure-A**

**Consignee address<sup>10</sup> and Consignee-wise Quantity distribution**

Sl. No.	State	Name of the ART Centre	No. of CD-4 POC Machines - Low Throughput required per site
1	Assam	ART Centre, Jorhat Medical College & Hospital, Jorhat	1
2	Bihar	SH, Khagaria	1
3	Chattisgarh	SARGUJA	1
4	Gujarat	General Hospital Amreli	1
5	Gujarat	GENERAL HOSPITAL MORBI	1
6	Gujarat	ART CENTER PORBANDAR, BHAVSINHJI GENERAL HOSPITAL, PORBANDAR	1
7	Himachal Pradesh	FI ART Zonal Hospital Mandi (HP)	1
8	Himachal Pradesh	FI ART R.H.BILASPUR	1
9	Himachal Pradesh	FI ARTC, RH-Una	1
10	Jharkhand	SADAR HOSPITAL DEOGHAR	1
11	Karnataka	Channagiri	1
12	Karnataka	Kodagu	1
13	Karnataka	Sirguppa	1
14	Karnataka	Sirsi	1
15	Karnataka	Tiptur	1
16	Kerala	Ernakulam	1
17	Kerala	Kasargod	1
18	Kerala	Kannur	1
19	Madhya Pradesh	Dhar	1
20	Madhya Pradesh	Barwani	1
21	Madhya Pradesh	Neemuch	1
22	Madhya Pradesh	Ratlam	1
23	Madhya Pradesh	Burhanpur	1
24	Madhya Pradesh	Balaghat	1
25	Madhya Pradesh	Shivpuri	1
26	Maharashtra	Sub District Hospital, Shirpur	1
27	Maharashtra	Rural Hospital, Amalner	1
28	Maharashtra	Sub District Hospital, Udgir	1
29	Maharashtra	Rural Hospital, Sastur	1

<sup>10</sup> The detailed consignee address shall be provided at the time of signing of contract.

30	Maharashtra	SDH Phaltan, Satara	1
31	Maharashtra	Sidhudurg CH	1
32	Maharashtra	SDH, Warora	1
33	Manipur	CHC Moreh	1
34	Mizoram	FIART Centre, DH (Kolasib)	1
35	Mizoram	FIART Centre, Kulikawn Hospital	1
36	Mizoram	FIART Centre, DH (Mamit)	1
37	Nagaland	FI-ARTC, DH, Phek	1
38	Nagaland	FI-ARTC, CHC, Jalukie	1
39	Odisha	DHH, Angul	1
40	Odisha	Sub-Divisional Hospital, Bhanjanagar	1
41	Odisha	DHH, Bhadrak	1
42	Odisha	DHH, Puri	1
43	Odisha	DHH, Nabarangpur	1
44	Odisha	FI-ART Centre, DHH, Nayagarh	1
45	Odisha	FI-ART Centre, DHH, Rayagada	1
46	Punjab	FI-ART CH MOGA	1
47	Rajasthan	Banswara	1
48	Rajasthan	Bharatpur	1
49	Rajasthan	Chittorgarh	1
50	Rajasthan	Churu	1
51	Rajasthan	Sirohi	1
52	Rajasthan	Sri Ganga Nagar	1
53	Tamil Nadu	ART, ART, Jayamkondam GH (Ariyalur District)	1
54	Tamil Nadu	Manaparai District Head Qtrs Hospital, Trichy District	1
55	Tamil Nadu	Pollachi GH, Coimbatore District	1
56	Telangana	Janagon	1
57	Telangana	Siddipet	1
58	Tripura	FIART Dharmanagar	1
59	Tripura	FIART Dhalai	1
60	Uttarpradesh	DH BALLIA	1
61	Uttarpradesh	Bareilly	1
62	Uttarpradesh	RIMSR ETAWAH	1
63	Uttarpradesh	DH SAHARANPUR	1
64	Uttarpradesh	DH Maharajganj	1
65	Uttarpradesh	DH Muzaffar Nagar	1
66	Uttarpradesh	DH Bijnor	1
67	Uttarpradesh	DH Sultanpur	1
68	Uttarpradesh	DH Balrampur	1
69	Uttarpradesh	DH Banda	1

70	Uttarakhand	FI-ARTC, Distt. Hosp. Pithoragarh	1
71	West Bengal	ART, MJN Coochbihar DH	1
72	West Bengal	MURSHIDABAD MEDICAL COLLEGE & HOSPITAL (SADAR CAMPUS)	1
73	West Bengal	FI-ARTC Tamluk D.H.	1
74	West Bengal	FI-ARTC Nadia DH	1
75	West Bengal	FI-ARTC Bankura Sammillani MC&H	1

## 2. List of Related Services

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### i) Incidental Services

The supplier may be required to provide any or all of the following services, including additional services, if any, specified in SCC:

- (a) Installation: The supplier will provide at the time of installation a log book for maintenance or equipment at no extra cost.
- (b) Training: The supplier shall provide onsite hands on training at the time of installation and annual refresher training.
- (c) Operating Manual: Original instruction manual / product literature must be provided by the manufacturer in English
- (d) Marketing standing and services: Principles should have marketing, sales and after-sales service network in India.
- (e) Repair and troubleshooting:
  - (i) The supplier should give commitment to troubleshoot (or availability of swap out model) and address breakdowns within 48 hours in major cities and within 72-96 hours in relatively remote areas. Failure to meet these requirements would make the manufacturer liable to penalty as per GCC Clause 12.2.
  - (ii) The supplier should maintain an inventory of all critical spares / repairs / backup devices in country to minimize downtime.
  - (iii) The supplier should provide six monthly feedback to NACO on breakdowns, repairs and other troubleshooting assistance.
- (f) Evaluation: Robust data through credible performance evaluations of the technology should be made available for review by the NACO designated expert group OR the supplier should undergo evaluation of its technology against established reference CD4 technology at a NACO designated reference lab.

### 3. Technical Specifications

#### Name of Equipment - CD4 (POC) Machine – Low Throughput

Sr. No.	Characteristics	Specifications
1	Model Type	Table Top
2	Validation	WHO pre-qualified / ERP approved
3	Principle	The POC can be based on different principles
4	Type of measurement	Absolute CD4 count with or without percentage
5	Sample Type	Blood – both venous and finger prick
6	Throughput	Minimum 10 tests / 8 hours working days
7	Temperature for functioning of machine	The machine should be functional at 10-40°C
8	Power supply	a) The machine should have in-built or external rechargeable battery with a power backup of minimum 4 hours and optional ability to draw power from alternate sources such as solar energy, car battery etc. b) When working on the electric current, the machine should work on 220-240 volts and 50Hz frequency and should be provided with compatible stabilizer to withstand voltage fluctuation if required.
9	Data Analysis and display	Machine should have automated data analysis, data display system
10	Data printing	Inbuilt or external printer with printer paper should be supplied free of cost
11	UPS	If the equipment does not have an inbuilt power source, a compatible UPS with power backup of 30 minutes shall be supplied with the system
<b>REAGENTS</b>		
12	Certification	DCGI approved and IVD
13	Reagent Supply	Manufacturer must ensure provision of uninterrupted supply of reagents that can measure absolute CD4 count with or without percentage and all necessary controls or calibrators, in addition to the equipment
14	Reagent Stability	10-30°C
15	Reagent Shelf-life	Minimum 9 months at the time of delivery to testing sites.



## 4. Inspections and Tests

The Inspection and tests, as applicable shall be:

### I. For Goods supplied from outside India:

- a) For goods supplied from outside India, Purchaser retains the right to perform pre-shipment inspection at the manufacturer's premises to confirm their conformity to the specifications. The Purchaser also retains the right to inspect the goods at the port of entry. The supplier shall offer the goods for inspection as soon as the goods are ready for dispatch and shall be dispatched from the supplier's facility, only after getting dispatch clearance from the Purchaser.
- b) The Supplier will make arrangement for storage of Goods at the port of entry at its own cost for the first 30 days after the arrival of shipment. The Purchaser will be responsible for costs arising from the storage, warehousing and demurrage in excess of thirty (30) days resulting from delays due to quality testing procedure(s).
- c) The Purchaser will retain the right to perform further inspections and quality testing at any time as it deems fit, at its own cost.

### II. For Goods supplied from Within India

- a) The Purchaser will arrange a pre-shipment inspection by an inspection agency for each consignment. The goods shall not be dispatched unless they are inspected by the Purchaser's representative, in the Supplier premises and found to be as per the specifications. The Supplier will not dispatch the consignment unless they receive the Dispatch Clearance certificate issued by the Purchaser.
- b) Further, the Purchaser will retain the right to perform further inspections at any time as it deems fit, at its own cost.

### For Both (I) and (II)

- a) The Purchaser reserves the right to subject the equipment for independent evaluation of performance.
- b) The Supplier shall get goods inspected in manufacturer's works by a competent authority and submit a test certificate and also guarantee/warranty certificate that the goods conform to laid down specifications.
- b) If the goods fail to meet the laid down specifications, the supplier shall take immediate steps to remedy the deficiency or replace the defective goods to the satisfaction of the Purchaser.



## **PART 3 - Contract**



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## **Section VIII. General Conditions of Contract**

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## Section VIII. General Conditions of Contract

- 1. Definitions**
- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Bank” means the World Bank and refers to the International Bank for Reconstruction and Development (IBRD) or the International Development Association (IDA).
  - (b) “Contract” means the Contract 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.
  - (c) “Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.
  - (d) “Contract Price” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
  - (e) “Day” means calendar day.
  - (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) “GCC” means the General Conditions of Contract.
  - (h) “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.
  - (i) “Purchaser’s Country” is the country specified in the Special Conditions of Contract (SCC).
  - (j) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the **SCC**.
  - (k) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other such obligations of the Supplier under the Contract.
  - (l) “SCC” means the Special Conditions of Contract.
  - (m) “Subcontractor” means any person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution

of any part of the Related Services is subcontracted by the Supplier.

- (n) "Supplier" means the 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 Contract Agreement.
- (o) "The Project 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 Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

## 3. Corrupt and Fraudulent Practices

- 3.1 The GFAM/Bank requires compliance with its policy in regard to corrupt and fraudulent practices as set forth in Appendix to the GCC.
- 3.2 The Purchaser requires the Supplier to disclose any commissions or fees that may have been paid or are to be paid to agents or any other party with respect to the bidding process or execution of the Contract. The information disclosed must include at least the name and address of the agent or other party, the amount and currency, and the purpose of the commission, gratuity or fee.

## 4. Interpretation

- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
  - (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
  - (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

### 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 the 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

- (a) 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.
- (b) 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 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, for documents provided by the Supplier.

### 6. Joint Venture, Consortium or Association

- 6.1 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, incorporated, or registered, 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 Bank 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 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**.
- 9.2 Throughout the execution of the Contract, the Contractor shall comply with the import of goods and services prohibitions in the Purchaser's country when
- (a) as a matter of law or official regulations, the Principal Recipient's country prohibits commercial relations with that country; or
- 9.2 (b) 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 Principal Recipient's Country prohibits any import of goods from that country or any payments to any country, person, or entity in that country.
- 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, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless

such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.

10.3 Notwithstanding any reference to arbitration herein,

- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) the Purchaser shall pay the Supplier any monies due the Supplier.

**11. Inspections and Audit by the GFATM/Bank**

11.1 The Supplier shall keep, and shall make all reasonable efforts to cause its Subcontractors to keep, accurate and systematic accounts and records in respect of the Goods in such form and details as will clearly identify relevant time changes and costs.

11.2 The Supplier shall permit, and shall cause its Subcontractors to permit, the GFATM/Bank and/or persons appointed by the GFATM/Bank to inspect the Supplier's offices and all accounts and records relating to the performance of the Contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the GFATM/Bank if requested by the GFATM/Bank. The Supplier's and its Subcontractors and consultants' attention is drawn to Clause 3 [Fraud and Corruption], which provides, inter alia, that acts intended to materially impede the exercise of the GFATM's/Bank's inspection and audit rights provided for under this Sub-Clause 11.1 constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the GFATM's/Bank's prevailing sanctions procedures)

**12. Scope of Supply**

12.1 The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.

**13. Delivery and Documents**

13.1 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 Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the **SCC**.

**14. Supplier's Responsibilities**

14.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 12, and the Delivery and Completion Schedule, as per GCC Clause 13.

- 15 Contract Price** 15.1 Prices charged by the Supplier for the Goods supplied 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, including any Advance Payments, if applicable, 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 13 and upon fulfillment of all other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
- 16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the **SCC**, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the **SCC**, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.
- 17. Taxes and Duties** 17.1 For goods manufactured 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 Manufactured 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 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount 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 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in one of the format stipulated by the Purchaser in the **SCC**, or in another format 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 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 GFATM

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. Such notification, in the original bid or later shall not 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 Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section VI, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (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) 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 Schedule of Requirements. 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 goods' final destination 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 and Incidental Services**

- 25.1 Unless otherwise specified in the **SCC**, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.
- 25.2 The Supplier may be required to provide any or all of the following services, including additional services, if any, **specified in SCC**:
- (a) performance or supervision of on-site assembly and/or start-up of the supplied Goods;
  - (b) furnishing of tools required for assembly and/or maintenance of the supplied Goods;
  - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
  - (d) performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
  - (e) training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation,

maintenance, and/or repair of the supplied Goods.

25.3 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, 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

## 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 the **SCC**.

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 Goods' final destination, 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 by the Date(s) of delivery 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 delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **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(b), 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 from the port or place of 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**

30.1 Except in cases of criminal negligence or willful misconduct,

- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, 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 total Contract Price, 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 28 days prior to date of Bid submission, 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/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.

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

**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 13, 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 26, 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 written 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;
  - (ii) if the Supplier fails to perform any other obligation under the Contract; or
  - (iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing 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.

### 35.2 Termination for Insolvency.

- (a) 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 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.

## 37. Export Restriction

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to the country of the Purchaser, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the

Purchaser and of the Bank that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.





## APPENDIX TO GENERAL CONDITIONS

### Bank's Policy- Corrupt and Fraudulent Practices

*(text in this Appendix shall not be modified)*

**Guidelines for Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants by World Bank Principal Recipients, dated January 2011:**

**“Fraud and Corruption:**

1.16 It is the Bank's policy to require that Principal Recipients (including beneficiaries of Bank loans), bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of Bank-financed contracts.<sup>11</sup> In pursuance of this policy, the Bank:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
  - (i) “corrupt practice” is the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;<sup>12</sup>
  - (ii) “fraudulent practice” is 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;<sup>13</sup>
  - (iii) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;<sup>14</sup>

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<sup>11</sup> In this context, any action to influence the procurement process or contract execution for undue advantage is improper.

<sup>12</sup> For the purpose of this sub-paragraph, “*another party*” refers to a public official acting in relation to the procurement process or contract execution. In this context, “*public official*” includes World Bank staff and employees of other organizations taking or reviewing procurement decisions.

<sup>13</sup> For the purpose of this sub-paragraph, “*party*” refers to a public official; the terms “*benefit*” and “*obligation*” relate to the procurement process or contract execution; and the “*act or omission*” is intended to influence the procurement process or contract execution.

<sup>14</sup> For the purpose of this sub-paragraph, “*parties*” refers to participants in the procurement process (including public officials) attempting either themselves, or through another person or entity not participating in the procurement or selection process, to simulate competition or to establish bid prices at artificial, non-competitive levels, or are privy to each other's bid prices or other conditions.

- (iv) “coercive practice” is 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;<sup>15</sup>
- (v) "obstructive practice" is:
  - (aa) deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Bank investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or
  - (bb) acts intended to materially impede the exercise of the Bank’s inspection and audit rights provided for under paragraph 1.16(e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Principal Recipient or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices during the procurement or the implementation of the contract in question, without the Principal Recipient having taken timely and appropriate action satisfactory to the Bank to address such practices when they occur, including by failing to inform the Bank in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing Bank’s sanctions procedures,<sup>16</sup> including by publicly declaring such firm or individual ineligible, either indefinitely or for a stated period of

<sup>15</sup> For the purpose of this sub-paragraph, “party” refers to a participant in the procurement process or contract execution.

<sup>16</sup> A firm or individual may be declared ineligible to be awarded a Bank financed contract upon: (i) completion of the Bank’s sanctions proceedings as per its sanctions procedures, including, inter alia, cross-debarment as agreed with other International Financial Institutions, including Multilateral Development Banks, and through the application the World Bank Group corporate administrative procurement sanctions procedures for fraud and corruption; and (ii) as a result of temporary suspension or early temporary suspension in connection with an ongoing sanctions proceeding. See footnote 14 and paragraph 8 of Appendix 1 of these Guidelines.

time: (i) to be awarded a Bank-financed contract; and (ii) to be a nominated<sup>17</sup>;

- (e) will require that a clause be included in bidding documents and in contracts financed by a Bank loan, requiring bidders, suppliers and contractors, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit the Bank to inspect all accounts, records, and other documents relating to the submission of bids and contract performance, and to have them audited by auditors appointed by the Bank.”

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<sup>17</sup> A nominated sub-contractor, consultant, manufacturer or supplier, or service provider (different names are used depending on the particular bidding document) is one which has either been: (i) included by the bidder in its pre-qualification application or bid because it brings specific and critical experience and know-how that allow the bidder to meet the qualification requirements for the particular bid; or (ii) appointed by the Principal Recipient.



## Section IX. Special Conditions of Contract

The following Special Conditions of Contract (SCC) shall supplement and / or amend 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(i)</b>	The Purchaser's country is: <i>India</i>
<b>GCC 1.1(j)</b>	The Purchaser is Ministry of Health & Family Welfare, Government of India. Strategic Alliance Management Services Pvt. Ltd. is the authorized Procurement Agent of the Purchaser and the Purchaser will exercise all rights and obligation under this contract through the Procurement Agent pursuant to the Agreement between the Ministry of Health and Family Welfare (MOHFW), Government of India and Strategic Alliance Management Services Pvt. Ltd.
<b>GCC 1.1 (o)</b>	The Project Site(s)/Final Destination(s) is <b>Specified in Schedule of Requirement.</b>
<b>GCC 4.2 (a)</b>	The meaning of the trade terms shall be as prescribed by Incoterms.
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be <i>2010</i>
<b>GCC 5.1</b>	The language shall be: <i>English</i>
<b>GCC 8.1</b>	For <b>notices</b> , the Purchaser's address shall be:  Strategic Alliance Management Services Pvt. Ltd. (SAMS) B01-B03, Vardhman Diamond Plaza, Community Centre, D.B. Gupta Road, Paharganj, New Delhi 110055, INDIA; Phone: +91-7042697953, +91-7042697950, 011-43580626/7; Email: <a href="mailto:srastogi@samsconsult.org">srastogi@samsconsult.org</a>
<b>GCC 9.1</b>	The governing law shall be the law of <i>Union of India</i>
<b>GCC 10.2</b>	The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:  Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Supplier and Clause 10.2 (b) shall be retained in the case of a Contract with Indian Supplier.  <b>(a) Contracts with foreign Supplier:</b> Any dispute, controversy, or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

	<p><b>(b) Contracts with Indian Supplier:</b></p> <p>i) In case of Dispute or difference arising between the Purchaser and a supplier relating to any matter arising out of or connected with this agreement, such disputes or difference shall be settled in accordance with the Arbitration and Conciliation Act, 1996. The arbitral tribunal shall consist of 3 arbitrators one each to be appointed by the Purchaser and the Supplier. The third Arbitrator shall be chosen by the two Arbitrators so appointed by the Parties and shall act as Presiding arbitrator. In case of failure of the two arbitrators appointed by the parties to reach upon a consensus within a period of 30 days from the appointment of the arbitrator appointed subsequently, the Presiding Arbitrator shall be appointed in accordance with the provisions of the Arbitration and Conciliation Act 1996.</p> <p>ii) If one of the parties fails to appoint its arbitrator in pursuance of sub clause (a) above, within 30 days after receipt of the notice of the appointment of its arbitrator by the other party, then the appointment of the Arbitrator shall be made in accordance with the provisions of the Arbitration and Conciliation Act 1996.</p> <p>iii) The venue of Arbitration shall be New Delhi and the language of the arbitration proceedings and that of all councils and communications between the parties shall be English.</p> <p>iv) The decision of the majority of arbitrators shall be final and binding upon parties. The cost and expenses of Arbitration proceedings will be paid as determined by the arbitral tribunal. However, the expenses incurred by each party in connection with the preparation, presentation, etc. of its proceedings as also the fees and expenses paid to the arbitrator appointed by such party or on its behalf shall be borne by each party itself.</p> <p>v) The provisions of the Arbitration and Conciliation Act of 1996 along with the Rules herewith and any statutory modification or reenactment thereof shall apply to arbitration proceedings.</p> <p>For both a) and b) above: If a dispute under the Supplier Contract raises the same issues as those in respect of a related dispute with another supplier contract, the Purchaser will have the option of having the arbitration proceedings joined.</p>
<p><b>GCC 12 (additional clause 12.2)</b></p>	<p>Add as a new Clause 12.2 of the GCC</p> <p>Free Comprehensive Maintenance and Repair services including testing &amp; calibration, labor and spares shall be provided by the Supplier during the period of warranty as specified in article SCC 28.3.</p>

	<p>The warranty includes repairs of entire system, preventive maintenance testing &amp; calibration, labor and spares and all software updates.</p> <p>During the Warranty period in case of non-compliance of the above, liquidated damages at the rate of 0.075% of the Contract Price per non-functional unit per day beyond 10 days in a year shall be imposed and equivalent amount shall be deducted from the performance security.</p> <p>The maximum response time for maintenance complaint shall not exceed 48 hours in major cities and within 72-96 hours in relatively remote areas. The unit must be made functional within 7 working days (including response time) from the time a defect is reported to the Supplier. In case, a replacement of defective Goods needs more than 7 working days, as an interim solution the bidder must make available a Service / Goods part for complete functioning of the Goods within the same specified time frame as mentioned above. However, the defective Goods must be replaced within 30 days.</p>
<p><b>GCC 13.1</b></p>	<p>Details of Shipping and other Documents to be furnished by the Supplier are</p> <p><b>I. For Goods supplied from abroad</b></p> <p><b>(A) Documents to be submitted to purchaser : -</b></p> <p>Upon shipment, within 24 hours the Supplier shall notify the Purchaser and the insurance company in writing by cable, telex or Fax, the full details of the shipment including Contract number, description of the Goods, quantity, date and port of shipment, mode of transportation, the vessel and estimated date of arrival at port of entry and place of final destination. In the event of Goods sent by airfreight, the Supplier shall notify the Purchaser a minimum of seventy-two (72) hours ahead of dispatch, the name of the carrier, the flight number, date and time of arrival, the Master airway-bill and the House airway - bill numbers. The Supplier shall first fax the above details and then send to the Purchaser, by courier, the following:</p> <ul style="list-style-type: none"> <li>(i) One original and three copies of the suppliers commercial invoice, indicating the Strategic Alliance Management Services Pvt. Ltd. as Purchaser on behalf of Ministry of Health &amp; Family Welfare, Govt. of India; the Contract number, credit number, Goods description, quantity, unit price, and total amount and 90% amount being claimed. Invoices must be signed in original and stamped, or sealed with the company stamp/seal;</li> <li>(ii) Original and two copies of negotiable, clean, on-board through bill of lading marked "freight prepaid" and indicating the Strategic Alliance Management Services Pvt. Ltd. as Purchaser on behalf of Ministry of Health &amp; Family Welfare, Govt. of India, and notify Consignees as stated in the Contract.</li> <li>(iii) Four copies of the packing list identifying contents of each</li> </ul>

	<p>package;</p> <p>(iv) One original of the manufacturer's Warranty Certificate covering all items supplied;</p> <p>(v) Original and three copies of Certificate of Inspection furnished to supplier by the nominated agency (where inspection is required);</p> <p>(vi) Original and four copies of Internal Test Analysis Report of the Manufacturer for the items offered</p> <p>(vii) Original of supplier's Certificate of Origin covering all items supplied;</p> <p>(viii) Original and six copies of the certificate of weight issued by the port authority/licensed authority.</p> <p>(ix) Any other/additional procurement-specific documents required for delivery/payment purposes showing delivery upto final destination.</p> <p><b>(B) Documents to be submitted to consignee:-</b>  The Supplier shall intimate the Consignee in advance at least 7 days before the dispatch of Goods the expected date of arrival of Goods along with quantity of Goods. Along with each consignment the supplier shall provide the consignee the documents mentioned in as below:</p> <p>(i) Supplier's Delivery note, indicating Goods' description, quantity, batch number, date of expiry etc Delivery note must be signed in original and stamped or sealed with the company stamp/seal;</p> <p>(ii) Packing list identifying contents of each Package</p> <p>(iii) Manufacturer's Warranty certificate covering all items supplied</p> <p>(iv) Copy of Insurance Certificate</p> <p>(v) Inspection Certificate in case of Pre Dispatch Inspection.</p> <p>(vi) Country of Origin certificate</p> <p><b>II. For Goods from within India</b></p> <p><b>(A) Documents to be submitted to Purchaser:-</b>  Upon the delivery of the Goods, the Supplier shall notify the purchaser in writing and deliver to the Purchaser three sets of documents comprising of the following:</p> <p>(i) One original and three copies of commercial invoice for 90% value of the goods indicating Strategic Alliance Management</p>
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	<p>Services Pvt. Ltd. as Purchaser on behalf of Ministry of Health &amp; Family Welfare, Govt. of India, the Contract number, credit number; Goods' description, quantity, unit price, and total amount and 90% amount being claimed. Invoices must be signed in original and stamped or sealed with the company stamp/seal;</p> <ul style="list-style-type: none"><li>(ii) Proof of dispatch (POD) viz., Railway consignment note, road consignment note, truck or airway bill, or multimodal transport document showing Purchaser as Strategic Alliance Management Services Pvt. Ltd. on behalf of Ministry of Health &amp; Family Welfare, Govt. of India and delivery through to final destination as stated in the Contract.</li><li>(iii) Two original and three copies of Acknowledgement of receipt of goods from the Consignee i.e. Consignment Receipt Certificate (CRC)</li><li>(iv) Four copies of packing list identifying contents of each package;</li><li>(v) One original manufacturer's Warranty certificate covering all items supplied.</li><li>(vi) Internal Test Analysis Report of the Manufacturer for the items offered</li><li>(vii) One original and three copies of the Certificate of Inspection furnished to Supplier by the nominated inspection agency (where inspection is required)</li><li>(viii) One original of the Supplier's Certificate of Origin covering all items supplied</li><li>(ix) Copy of notification of the local tax authority in support of rate of tax indicated in invoice.</li><li>(x) Any other additional procurement-specific document(s) required for delivery/payment purposes.</li></ul> <p><b>(B) Documents to be submitted to Consignee: -</b> The Supplier should intimate the Consignee in advance at least 7 days before the dispatch of Goods the expected date of arrival of Goods along with quantity of Goods. Along with each consignment the Supplier should provide the Consignee the documents mentioned in as below:</p> <ul style="list-style-type: none"><li>(i) Copy of Invoice containing particulars as per para II(A)(i) above;</li><li>(ii) Packing list identifying contents of each package</li></ul>
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	<p>(iii) Manufacturer's or Supplier's Warranty certificate covering all items supplied.</p> <p>(iv) Copy of insurance certificate.</p> <p>(v) Country of Origin certificate</p> <p><b>Note:</b> In the event that the documents presented by the Supplier are not in accordance with the Contract, then payment will be made against issue of the Acceptance Certificate to be issued by the Purchaser's Consignee.</p>
<b>GCC 15.1</b>	The prices charged for the Goods supplied and the related Services performed shall be fixed during the performance of the contract.
<b>GCC 16.1</b>	<p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p><b>(A) Payment for Goods supplied from abroad:</b> Payment of foreign currency portion shall be made in the currency of the contract price by Electronic clearing systems (ECS) to the Supplier's nominated bank account in the following manner:</p> <p>(i) <b>On Delivery:</b> Ninety (90) percent of the Contract Price of the Goods delivered to the consignee shall be paid within sixty (60) days of submission of documents specified in SCC Clause 13 above and Consignee Receipt Certificate</p> <p>(ii) <b>On Successful, Installation, Commissioning and Testing of equipment:</b> Ten (10) percent of the Contract Price of Goods received shall be paid within sixty (60) days of receipt of one original and three copies of commercial Invoice for remaining amount of 10% of the value of goods along with Final Acceptance Certificate issued by the consignee.</p> <p>Payment of local currency portion shall be made in Indian Rupees by Electronic clearing systems (ECS) to the Supplier's nominated bank account within sixty (60) days of presentation of one original and three copies of commercial invoice (showing Purchaser's name; the Contract number, loan number; description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Final Acceptance Certificate issued by the consignee.</p> <p>(iii) Hundred (100) percent of the value for Reagents and Kits received during previous quarter shall be paid within sixty (60) days of receipt of Reagents and Kits upon submission of one original and three copies of commercial invoice as per para (ii) above supported by Consignee Receipt Certificate.</p> <p><b>(B) Payment for Goods and Services supplied from within the</b></p>

	<p><b>Purchaser's country:</b> Payment for Goods and Services supplied from within the Purchaser's country shall be made in the currency of the contract price through ECS to the Supplier's nominated bank account as follows:</p> <p>(i) <b>On Delivery:</b> Ninety (90) percent of the Contract Price of the Goods delivered to the Consignee shall be paid within 60 days of submission of documents specified in GCC Clause 13 along with the Consignee Receipt Certificate issued by the Consignee.</p> <p>(ii) <b>On successful, installation, commissioning and testing of equipment:</b> Ten (10) percent of the Contract Price of Goods delivered shall be paid within sixty (60) days of receipt of one original and three copies of commercial Invoice for remaining amount of 10% of the cost of goods along with Final Acceptance Certificate issued by the consignee.</p> <p>(iii) Hundred (100) percent of the value for Reagents and Kits received during previous quarter shall be paid within sixty (60) days of receipt of Reagents and Kits upon submission of original and three copies of commercial invoice supported by Consignee Receipt Certificate</p>
<p><b>GCC 16.5</b></p>	<p>The payment-delay period after which the Purchaser shall pay interest to the supplier shall be 90 days.</p> <p>The interest rate that shall be applied is 4% per annum for payments in Indian currency. For foreign currency per annum interest rate will be LIBOR three month rate for specific currency as prevailing on date of NOA.</p>
<p><b>GCC 18.1</b></p>	<p>a) Within 21 days after the Supplier's receipt of Notification of Award, the Supplier shall furnish Performance Security to the Purchaser for an amount of 10% of the contract value, valid up to 90 days after the date of completion of performance obligations including warranty obligations.</p> <p>In the event of any correction of defects or replacement of defective material during the warranty period, the warranty for the corrected/replaced material shall be extended to a further period of <b>36 months</b> and the Performance Bank Guarantee for proportionate value shall be extended 90 days over and above the extended warranty period.</p>

<b>GCC 18.3</b>	<p>The performance security shall be in the form of a bank guarantee and the named beneficiary shall be “Strategic Alliance Management Services Pvt. Ltd., New Delhi” (acting as procurement agent on behalf of Ministry of Health &amp; Family Welfare Government of India). The bank guarantee shall be issued either by a bank located in the country of the Purchaser (Nationalized or Scheduled Bank in India) or a foreign bank through a correspondent bank located in the country of the Purchaser (Nationalized or Scheduled Bank in India), acceptable to the purchaser.</p> <p>The Bank Guarantee shall be in the format provided in the Bidding Documents.</p> <p>The bank guarantee mentioned in SCC 18.1 b) above shall be in a format acceptable to the Purchaser.</p>
<b>GCC 18.4</b>	<p>The Performance Security will be discharged by the Purchaser and returned to the Supplier not later than 60 days following the date of completion of the Supplier’s performance obligations, including any warranty obligation, under the contract.</p>
<b>GCC 23.2</b>	<p>The packing, marking and documentation within and outside the packages shall be</p> <p><u>Packing Instructions:</u> The Supplier will be required to make separate packages for each Consignee. Each package will be marked with proper paint/indelible ink with the following :</p> <ul style="list-style-type: none"> <li>i. Project;</li> <li>ii. Contract No.;</li> <li>iii. Country of Origin of Goods;</li> <li>iv. Supplier’s Name</li> <li>v. Packing list reference No.,</li> <li>vi. Government of India supply - Not for Sale.</li> </ul>
<b>GCC 24.1</b>	<p>The insurance shall be in an amount equal to 110 percent of the CIP value of the Goods from “warehouse” to “warehouse” on “All Risks” basis, including war risks and strikes showing purchaser as Beneficiary.</p> <p><b>Add GCC Clause 24.2 as under:</b></p> <p>GCC 24.2 Should any loss or damage occur, the Supplier shall</p> <ul style="list-style-type: none"> <li>a) initiate and pursue claim till settlement on behalf of purchaser, and</li> <li>b) promptly make arrangements for repair and/or replacement of any damaged items/lost in transit items irrespective of settlement of claim by the underwriters.</li> </ul>

<b>GCC 25.1</b>	The Supplier is required under the Contract to transport the Goods to the specified place of final destination within the Purchaser's country, defined as the Project Site. Transport to such place of destination in the Purchaser's country, including <u>unloading</u> , insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs are included in the Contract Price.
<b>GCC 25.2</b>	Incidental services to be provided are: As per Section – VII Schedule of Requirement – List of Related Services
<b>GCC 26.1</b>	The Supplier shall conduct tests to confirm that the goods supplied are as per specification and enclose the test and inspection certificate along with supply.
<b>GCC 26.2</b>	<p>The Purchaser or his representative may conduct the Inspections of the facility any time before the award of contract and also conduct Inspection for the Goods anytime before or after the dispatch of Goods.</p> <p>Unless the Goods supplied according to the Schedule of Requirements is satisfactorily installed and training on use of the equipment is provided, the Consignee will not issue the Final Acceptance Certificate.</p>
<b>GCC 27.1</b>	Applicable rate shall not exceed one-half <b>0.5%</b> per week or part thereof
<b>GCC 27.1</b>	The maximum amount of liquidated damages shall be: <b>10%</b>
<b>GCC 28.3</b>	<p>(i) In partial modification of the provisions, the warranty period shall remain valid no less than <b>5 (five) years</b> from date of satisfactory installation of equipment.</p> <p>For purposes of the Warranty, the place(s) of final destination(s) shall be: The consignees mentioned in the Schedule of Requirement ( Section VII)</p>
<b>GCC 28.5</b>	<p>Upon receipt of such notice, the Supplier shall, within a period of <b>7 days</b> and with all reasonable speed, repair or replace the defective goods or parts thereof, free of cost at the ultimate destination. The Supplier shall take over the replaced parts/goods at the time of their replacement. No claim what so ever, shall lie on the Purchaser for the replaced parts/goods thereafter.</p> <p>In the event of any correction of defects or replacement of defective material during the warranty period, the warranty for the corrected/replaced material shall be extended to a further period of <b>12 months.</b>"</p>
<b>GCC 28.6</b>	The system should be serviced at site by technicians/engineers. Local technicians will be trained free of cost by the Supplier at the time of Installation at each site and as mentioned in Technical Specifications.

## Attachment: Price Adjustment Formula

**(DELETED)**

If in accordance with GGC 15.1, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

15.1 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:

$$P_1 = P_0 \left[ a + \frac{bL_1}{L_0} + \frac{cM_1}{M_0} \right] - P_0$$

$$a + b + c = 1$$

in which:

$P_1$  = adjustment amount payable to the Supplier.

$P_0$  = Contract Price (base price).

$a$  = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.

$b$  = estimated percentage of labor component in the Contract Price.

$c$  = estimated percentage of material component in the Contract Price.

$L_0, L_1$  = \*labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.

$M_0, M_1$  = \*material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

The Bidder shall indicate the source of the indices and the base date indices in its bid.

The coefficients  $a$ ,  $b$ , and  $c$  as specified by the Purchaser are as follows:

$a =$  *[insert value of coefficient]*

$b =$  *[insert value of coefficient]*

$c =$  *[insert value of coefficient]*

Base date = thirty (30) days prior to the deadline for submission of the bids.

Date of adjustment = *[insert number of weeks]* weeks prior to date of shipment (representing the mid-point of the period of manufacture).

~~The above price adjustment formula shall be invoked by either party subject to the following further conditions:~~

- ~~(a) No price adjustment shall be allowed beyond the original delivery dates. 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 Services subject to adjustment.~~
- ~~(b) If the currency in which the Contract Price  $P_0$  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.~~
- ~~(c) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.~~





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## Section X. Contract Forms

This Section contains forms which, once completed, will form part of the Contract. The forms for Performance Security and Advance Payment Security, when required, shall only be completed by the successful Bidder after contract award.

### Table of Forms

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# Letter of Acceptance

*[letterhead paper of the Purchaser]*

*[date]*

To: *[name and address of the Supplier]*

Subject: **Notification of Award Contract No.** . . . . .

This is to notify you that your Bid dated . . . . ***[insert date]*** . . . . for execution of the . . . . . ***[insert name of the contract and identification number, as given in the SCC]***. . . . . for the Accepted Contract Amount of . . . . . ***[insert amount in numbers and words and name of currency]***, as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are requested to furnish the Performance Security within 28 days in accordance with the Conditions of Contract, using for that purpose the of the Performance Security Form included in Section X, Contract Forms, of the Bidding Document.

Authorized Signature: \_\_\_\_\_

Name and Title of Signatory: \_\_\_\_\_

Name of Agency: \_\_\_\_\_

**Attachment: Contract Agreement**

## Contract Agreement

*[The successful Bidder shall fill in this form in accordance with the instructions indicated]*

THIS AGREEMENT made

the *[insert: **number**]* day of *[insert: **month**]*, *[insert: **year**]*.

BETWEEN

- (1) *[insert complete name of Purchaser]*, a *[insert description of type of legal entity, for example, an agency of the Ministry of .... of the Government of {insert name of Country of Purchaser}, or corporation incorporated under the laws of {insert name of Country of Purchaser}]* and having its principal place of business at *[insert address of Purchaser]* (hereinafter called "the Purchaser"), of the one part, and
- (2) *[insert name of Supplier]*, a corporation incorporated under the laws of *[insert: country of Supplier]* and having its principal place of business at *[insert: address of Supplier]* (hereinafter called "the Supplier"), of the other part :

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., *[insert brief description of Goods and Services]* and has accepted a Bid by the Supplier for the supply of those Goods and Services

The Purchaser and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other contract documents.
  - (a) the Letter of Acceptance
  - (b) the Letter of Bid
  - (c) the Addenda Nos. \_\_\_\_\_ (if any)
  - (d) Special Conditions of Contract
  - (e) General Conditions of Contract

- (f) the Specification (including Schedule of Requirements and Technical Specifications)
  - (g) the completed Schedules (including Price Schedules)
  - (h) any other document listed in GCC as forming part of the Contract
3. In consideration of the payments to be made by the Purchaser to the Supplier as specified in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and 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 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 *[insert the name of the Contract governing law country]* on the day, month and year indicated above.

For and on behalf of the Purchaser

Signed: *[insert signature]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier]*  
in the capacity of *[ insert title or other appropriate designation ]*  
in the presence of *[ insert identification of official witness]*

## Performance Security

### Option 1: (Bank Guarantee)

*[The bank, as requested by the successful Bidder, shall fill in this form in accordance with the instructions indicated]*

*[Guarantor letterhead or SWIFT identifier code]*

**Beneficiary:** *[insert name and Address of Purchaser ]*

**Date:** *\_ [Insert date of issue]*

**PERFORMANCE GUARANTEE No.:** *[Insert guarantee reference number]*

**Guarantor:** *[Insert name and address of place of issue, unless indicated in the letterhead]*

We have been informed that *\_ [insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture]* (hereinafter called "the Applicant") has entered into Contract No. *[insert reference number of the contract]* dated *[insert date]* with the Beneficiary, for the supply of *\_ [insert name of contract and brief description of Goods and related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of *[insert amount in figures]* *in* *[insert amount in words]*,<sup>1</sup> such sum being payable in the types and proportions of currencies in which the Contract Price is payable, upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating that the Applicant is in breach of its obligation(s) under the Contract, without the Beneficiary needing to prove or to show grounds for your demand or the sum specified therein.

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<sup>1</sup> *The Guarantor shall insert an amount representing the percentage of the Accepted Contract Amount specified in the Letter of Acceptance, and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Beneficiary.*

This guarantee shall expire, no later than the .... Day of ....., 2...<sup>2</sup>, and any demand for payment under it must be received by us at this office indicated above on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No. 758, except that the supporting statement under Article 15(a) is hereby excluded.

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*[signature(s)]*

***Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.***

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<sup>2</sup> *Insert the date twenty-eight days after the expected completion date as described in GC Clause 18.4. The Purchaser should note that in the event of an extension of this date for completion of the Contract, the Purchaser would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months][one year], in response to the Beneficiary's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."*

## Option 2: Performance Bond (DELETED)

~~By this Bond [insert name of Principal] as Principal (hereinafter called "the Supplier") and [insert name of Surety] as Surety (hereinafter called "the Surety"), are held and firmly bound unto [insert name of Purchaser] as Obligee (hereinafter called "the Supplier") in the amount of [insert amount in words and figures], for the payment of which sum well and truly to be made in the types and proportions of currencies in which the Contract Price is payable, the Supplier and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.~~

~~WHEREAS the Contractor has entered into a written Agreement with the Purchaser dated the \_\_ day of \_\_\_\_\_, 20 \_\_, for [name of contract and brief description of Goods and related Services] in accordance with the documents, plans, specifications, and amendments thereto, which to the extent herein provided for, are by reference made part hereof and are hereinafter referred to as the Contract.~~

~~NOW, THEREFORE, the Condition of this Obligation is such that, if the Supplier shall promptly and faithfully perform the said Contract (including any amendments thereto), then this obligation shall be null and void; otherwise, it shall remain in full force and effect. Whenever the Supplier shall be, and declared by the Purchaser to be, in default under the Contract, the Purchaser having performed the Purchaser's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:~~

- ~~(1) complete the Contract in accordance with its terms and conditions; or~~
- ~~(2) obtain a Bid or bids from qualified Bidders for submission to the Purchaser for completing the Contract in accordance with its terms and conditions, and upon determination by the Purchaser and the Surety of the lowest responsive Bidder, arrange for a Contract between such Bidder and Purchaser and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the Balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "Balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by Purchaser to Supplier under the Contract, less the amount properly paid by Purchaser to Contractor; or~~

~~(3) pay the Purchaser the amount required by Purchaser to complete the Contract in accordance with its terms and conditions up to a total not exceeding the amount of this Bond.~~

~~The Surety shall not be liable for a greater sum than the specified penalty of this Bond.~~

~~Any suit under this Bond must be instituted before the expiration of one year from the date of the issuing of the Taking-Over Certificate.~~

~~No right of action shall accrue on this Bond to or for the use of any person or corporation other than the Purchaser named herein or the heirs, executors, administrators, successors, and assigns of the Purchaser.~~

~~In testimony whereof, the Supplier has hereunto set his hand and affixed his seal, and the Surety has caused these presents to be sealed with his corporate seal duly attested by the signature of his legal representative, this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_.~~

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_

SIGNED ON \_\_\_\_\_ on behalf of \_\_\_\_\_

By \_\_\_\_\_ in the capacity of \_\_\_\_\_

In the presence of \_\_\_\_\_



## Advance Payment Security (DELETED)

~~[Guarantor letterhead or SWIFT identifier code]~~

~~**Beneficiary:** [Insert name and Address of Purchaser] \_\_\_\_\_~~

~~**Date:** [Insert date of issue]~~

~~**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_ [Insert guarantee reference number]~~

~~**Guarantor:** [Insert name and address of place of issue, unless indicated in the letterhead]~~

~~We have been informed that [insert name of Supplier, which in the case of a joint venture shall be the name of the joint venture] (hereinafter called "the Applicant") has entered into Contract No. [insert reference number of the contract] dated [insert date] with the Beneficiary, for the execution of [insert name of contract and brief description of Goods and related Services] (hereinafter called "the Contract").~~

~~Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum [insert amount in figures] ( ) [insert amount in words] is to be made against an advance payment guarantee.~~

~~At the request of the Applicant, we as Guarantor, hereby irrevocably undertake to pay the Beneficiary any sum or sums not exceeding in total an amount of [insert amount] \_\_\_\_\_ in \_\_\_\_\_ figures] ( ) [insert amount in words]<sup>1</sup> upon receipt by us of the Beneficiary's complying demand supported by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, stating either that the Applicant:~~

- ~~(a) has used the advance payment for purposes other than toward delivery of Goods; or~~
- ~~(b) has failed to repay the advance payment in accordance with the Contract conditions, specifying the amount which the Applicant has failed to repay.~~

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<sup>1</sup> ~~The Guarantor shall insert an amount representing the amount of the advance payment and denominated either in the currency(ies) of the advance payment as specified in the Contract, or in a freely convertible currency acceptable to the Purchaser.~~

~~A demand under this guarantee may be presented as from the presentation to the Guarantor of a certificate from the Beneficiary's bank stating that the advance payment referred to above has been credited to the Applicant on its account number *[insert number]* at *[insert name and address of Applicant's bank]*.~~

~~The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, has been certified for payment, or on the *[insert day]* day of *[insert month]*, 2 *[insert year]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.~~

~~This guarantee is subject to the Uniform Rules for Demand Guarantees (URDG) 2010 Revision, ICC Publication No.758, except that the supporting statement under Article 15(a) is hereby excluded.~~

\_\_\_\_\_  
*[signature(s)]*

**Note: All italicized text (including footnotes) is for use in preparing this form and shall be deleted from the final product.**

## Consignee Receipt Certificate (for 90% payment)

To

Strategic Alliance Management Services Pvt. Ltd.  
B01-B03, Vardhman Diamond Plaza,  
Community Centre, D.B. Gupta Road,  
Paharganj, New Delhi 110055

This is to certify that the Goods as detailed below have been received duly inspected in good condition in accordance with the conditions of the contract and amendment if any.

Project Name	
Purchaser	
Contract i.e. NOA No. & Date	
<b>Description of Goods Supplied</b> Name of Equipment: Model: Serial No.:	
Packing and labeling details	
Quantity supplied in Numbers	
Invoice No. and Date	
Name of supplier	
Date of delivery at consignee destination site	
	<b>Signature of designated Consignee.</b>
	Name :
	Designation :
	Seal :
	Contact No. :
	Fax No. :

## Final Acceptance Certificate (for 10% payment)

To

Strategic Alliance Management Services Pvt. Ltd.  
B01-B03, Vardhman Diamond Plaza,  
Community Centre, D.B. Gupta Road,  
Paharganj, New Delhi 110055

Project Name	
Purchaser	
Contract i.e. Notification of Award No. & Date	
<b>Description of Goods Supplied</b> Name of Equipment: Model: Serial No.:	
Name of Supplier	
Quantity Supplied in Numbers	
List with name of all or any accessories as per contract supplied with the equipment	
Date of Installation, testing and commissioning	
Is successful Installation, testing and commissioning of equipment supplied, upto the satisfaction of User done or not <b>(Yes/No)</b>	
Whether training provided to users upto the satisfaction or not <b>(Yes/No)</b>	
Date of Final Acceptance	
Invoice No. and Date	
Date of entry in Asset register	
Consignee full Address Name Address  Contact No. Fax No.	

### CERTIFICATE

We confirm having received \_\_\_\_\_ in good condition on \_\_\_\_\_ in accordance with the contract and entered in the Stock ledger at Page \_\_\_\_\_ on \_\_\_\_\_

Seal & Sign with Name & Designation  
Of the Consignee  
Tele & Fax: