

KINGDOM OF CAMBODIA

National Standard Bidding Documents  
Procurement of Goods

# Procurement Manual

Volume II

National Standard Bidding Documents  
Procurement of Goods

For Externally Financed  
Projects/Programs in Cambodia



September 2005

## **Annex III**

# **National Standard Bidding Documents**

**Annex III a**

**Standard National  
Competitive Bidding  
Documents**

**The Procurement of Goods**

## Preface

This document has been developed for use on all procurement of goods procured under national (or local) competitive bidding within the Kingdom of Cambodia. It has also been approved for use as national and local competitive bidding documents on projects funded by the International Bank for Reconstruction and Development (IBRD), its affiliate, the International Development Association (IDA), both hereinafter referred to as the World Bank (WB) and the Asian Development Bank (ADB). Through modification of the data sheets it is consistent with policies and procedures laid down in the *Guidelines: Procurement under IBRD Loans and IDA Credits* and *Guidelines for Procurement under Asian Development Bank Loans*. Its use is mandatory.

The standard Bidding Documents in this publication have been prepared for use by borrowers in the procurement of goods by national competitive bidding procedures (as described by the ADB as local competitive bidding) hereinafter referred to as NCB — valued below the threshold stated in Annex V of the Procurement Manual.

Goods valued above the threshold stated in Annex V of the Procurement Manual must employ the respective Bank's own international competitive bidding (ICB) procedures and processes as set out in their Guidelines and the Standard Bidding Documents issued in support of those Guidelines

This NCB document has been approved for use by both the WB and ADB on projects funded by them and is issued through the Ministry of Economy and Finance and its use is mandatory

To obtain further information on procurement under World Bank and Asian Development Bank assisted projects, contact:

For the World Bank  
Procurement Policy and Services Group  
Operations Policy and Country Services Vice Presidency  
Washington, D.C. 20433 U.S.A.  
[pdocuments@worldbank.org](mailto:pdocuments@worldbank.org)  
<http://www.worldbank.org/procure>

For the Asian Development Bank  
Central Operations Services Office  
Project Coordination and Procurement Division  
P.O. Box 789  
0980, Manila, Philippines  
Fax: (632) 636-2475  
<http://www.adb.org>

Ministry of Economy and Finance  
Department of Investment and Cooperation  
Street 92, Phnom Penh, Cambodia  
Fax (855-23) 725 341

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## INSTRUCTIONS

In order to simplify the preparation of bidding documents for each procurement, the SBD groups the provisions that are intended to be used unchanged in Section I, Instructions to Bidders, and in Section III, General Conditions of Contract. Data and provisions specific to each procurement and contract should be included in Section II, Bid Data Sheet; Section IV, Special Conditions of Contract; Section VI, Schedule of Requirements; and Section V, Technical Specifications & Statement of Compliance. The forms to be used are provided in Section VII, Bidding Forms, and Section VIII, Contract Forms..

Care should be taken to check the relevance of the provisions of the SBD against the requirements of the specific goods to be procured. The following general directions should be observed when using the documents. In addition, each section is prepared with notes intended only as information for the Purchaser or the person drafting the bidding documents. They shall *not* be included in the final documents, except for the notes introducing Section VIII, Forms, where the information is useful for the Bidder.

- (a) Specific details, such as the “name of the Purchaser” and “address for bid submission,” should be furnished in the Invitation for Bids, in the Bid Data Sheet, and in the Special Conditions of Contract. The final documents should contain neither blank spaces nor options.
- (b) Amendments, if any, to the Instructions to Bidders and to the General Conditions of Contract should be made through the Bid Data Sheet and the Special Conditions of Contract, respectively.
- (c) Footnotes or notes in italics included in the Invitation for Bids, Bid Data Sheet, Special Conditions of Contract, and in the Schedule of Requirements are not part of the text of the document, although they contain instructions that the Purchaser should strictly follow. The final document should contain no footnotes.
- (d) The criteria for bid evaluation and the various methods of evaluation in the Instructions to Bidders and data sheet should be carefully reviewed. Only those that are selected to be used for the procurement in question should be retained and expanded, as required, in the Bid Data Sheet or in the Technical Specifications, as appropriate. The criteria that are not applicable should be deleted from the Bid Data Sheet.
- (e) Clauses included in the Special Conditions of Contract are illustrative of the provisions that should be drafted specifically by the Purchaser for each procurement.

(f) The forms provided in Section VII, Bidding Forms should be completed by the Bidder or the Supplier; the footnotes in these forms should remain, since they contain instructions which the Bidder or the Supplier should follow

## INVITATION FOR BIDS

*[insert name of Country]*

*[insert name of Project]*

*insert loan/credit/grant number]*

*[insert IFB title and Number]*

1. The Government of Cambodia (GoC) *[insert “has received” or “has applied for”]* a *[insert “loan/credit” or “grant”]* from the *[insert “the International Development Association” or “The Asian Development Bank”]* toward the cost of *[insert name of Project]*, and it intends to apply part of the proceeds of this *[insert “loan/credit” or “grant”]* to payments under the Contract for *[insert name/no. of Contract]*.

<p>If the government is using its own funds delete the above paragraph renumbering the subsequent ones</p>
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2. The *[insert complete name of Purchaser]* now invites sealed bids from eligible bidders for *[insert brief description of the Goods to be procured]*.<sup>1</sup>

3. Procurement *[insert “will be conducted through National Competitive Bidding Procedures as specified in “World Bank Guidelines: Procurement Under IBRD Loan and IDA Credits” and in accordance with the Loan/Credit/Grant Agreement” or “will be conducted through Local Competitive Bidding procedures consistent with Asian Development Bank: Guidelines for Procurement Under Asian Development Bank Loans” or “will be conducted through Competitive Bidding Procedures and under the laws and regulations governing public procurement within the Kingdom of Cambodia” as applicable]*.<sup>2</sup>

4. This invitation is open to all bidders from all areas *[if the Funding is ADB delete this sentence and replace it with “This invitation is open to all eligible bidders from eligible source countries as described in the Bidding Document”]*.

5. Interested eligible bidders may obtain further information from and inspect the Bidding Documents at the address given below from *[insert office hours]*:

6. Qualification requirements include: *[insert the key technical, financial, legal and other qualification requirements specified in ITB sub-clause 14.2 of the bidding documents]*.

7. A complete set of Bidding Documents in *[insert Khmer or English]* may be purchased by interested bidders on the submission of a written Application to the address given below and upon payment of a non refundable fee *[insert amount in US Dollars]* or its equivalent in Cambodian Riel being *[insert Riel equivalent]*. The method of payment will be *[insert method of payment, for example, certified check, direct deposit to specified account number]*. The

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<sup>1</sup> A brief description of the type(s) of Goods or Goods should be provided, including quantities, location of Project, and other information necessary to enable potential bidders to decide whether or not to respond to the Invitation

<sup>2</sup> Occasionally, contracts may be financed out of special funds that would further restrict eligibility to a particular group of member countries. When this is the case, it should be mentioned in this paragraph.

Bidding Documents will be sent by *[insert delivery procedure]* or may be collected in person at the discretion of the bidder. Other than payment of the non-refundable fee specified above, there shall be no other conditions for purchase of the bidding documents. In case of any difficulty in purchase of the bidding documents, interested parties may contact in writing *[insert designation, address, telephone and fax Number of government officer who should be in higher position in the Executing Agency than the official specified in para. 5 above]* and also send a copy of the communication to *[insert designation, address, telephone and fax Number of concerned MEF official]."*

8. Bids must be delivered to the address given below at or before *[insert time and date]*. Late bids will be rejected. Bids will be opened in the presence of the Bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend shall be allowed to be present in person at the address given below at *[insert the same time and date as the deadline for bid submission]*.

9 All bids shall be accompanied by a Bid Security in the amount of US\$ *[insert amount]*

*Guidance note.*

*For WB and ADB financed contracts, delete the above paragraph and replace with the following text*

9 All bids shall be accompanied by a Bid Securing Declaration as described in the Instructions to Bidders

10. The Government of Cambodia and/or the Funding Agency will respectively declare a firm ineligible either indefinitely or for a stated period of time, to be awarded a contract financed by the Government of Cambodia and/or the Funding Agency respectively, if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for or in executing a contract.

11. The address(es) referred to above is(are): *[insert detailed address(es) including complete legal name of the Purchaser, Office designation (room number) , name of Officer, Street address, City (code), Country; Insert different addresses if addresses for purchase of bidding documents, bid submission and bid opening are different.]*

## **SECTION I, INSTRUCTIONS TO BIDDERS**

### *Notes on the Instructions to Bidders*

This section of the bidding documents provides the information necessary for bidders to prepare responsive bids, in accordance with the requirements of the Purchaser. It also provides information on bid submission, opening, and evaluation, and on the award of contract.

**Section I, Instructions to Bidders contains provisions that are to be used unchanged. Section II, Bid Data Sheet consists of provisions that supplement, amend, or specify in detail information or requirements included in Section I, Instructions to Bidders and which are specific to each procurement.**

Matters governing the performance of the Supplier, payments under the contract, or matters affecting the risks, rights, and obligations of the parties under the contract are not normally included in this section, but rather under Section III, General Conditions of Contract, and/or Section IV, Special Conditions of Contract. If duplication of a subject is inevitable in the other sections of the document prepared by the Purchaser, care must be exercised to avoid contradictions between clauses dealing with the same matter.

## **A General**

### **1. Scope of Bid**

- 1.1. The Purchaser, through the Government of Cambodia (GoC), indicated in the **Special Conditions of Contract** (SCC) sub-clause 1.1(g) issues these Bidding Documents for supply of Goods and Related services specified in Section VI, Schedule of Requirements. The name and identification number of this procurement are specified in the **Bid Data Sheet (BDS)**.

### **2. Source of Funds**

- 2.1. GoC will receive funding from the Funding Agency named in **SCC** sub-clause 1.1(j) in the amount and towards the cost of the Project described in the **Bid Data Sheet (BDS)**. The Purchaser intends to apply a portion of the proceeds of the funding to eligible payments under the contract(s) for which these Bidding Documents are issued. No payment shall be made to persons or entities for any import of goods, if such payment or import is prohibited by a decision of the United Nation's Security Council, taken under chapter VII of the Charter of the United Nations.

### **3. Fraud and Corruption**

- 3.1. The Funding Agency requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and consultants observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the GoC and the Funding Agency:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) *“corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and*
    - (ii) *“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-*

*competitive levels and to deprive the GoC of the benefits of free and open competition;*

(iii) *“collusive practices” means a scheme or arrangement between two or more bidders, designed to establish bid prices at artificial, non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract;*

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

- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent, coercive or collusive practices in competing for the contract in question;
- (c) will respectively declare a firm or individual ineligible, either indefinitely or for a stated period of time, to be awarded a contract funded by the GoC and the Funding Agency if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for, or in executing, any contract.

3.2 The Funding Agency will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Funding Agency to remedy the situation.

3.3 The GoC and the Funding Agency retains the right to inspect and audit the records of any bidder or supplier relating to either the bidding process itself or the resulting award and execution of a contract. The inspection and audit may, at the discretion of the GoC or the Funding Agency, be undertaken by independent auditors appointed by them. This provision is applicable to unsuccessful and successful bidders and their sub-contractors. Furthermore, bidders attention is drawn to **GCC Clause 3.3**.

3.4 All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption provided in Section VII, Bidding Forms and submit it with their bid.

## 4. Eligible Bidders

- 4.1. A Bidder, and all parties constituting the Bidder, may have the nationality of any country unless otherwise indicated in **GCC Sub-Clause 6.1**. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services. Any limitation of eligibility stated in **GCC Sub-Clause 6.1** shall also apply to the origin of goods and related services to be used in the performance of the Contract. For purposes of this clause, “origin” means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied.
- 4.2. Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this Invitation for Bids.
- 4.3. A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest in situations that could include the following:
- (a) have controlling shareholders in common;
  - (b) have been involved in the past either directly or indirectly with the Purchaser or any other entity that helped identify the requirement; or
  - (c) contributed to the design, specifications, and other documents for the Project or this procurement; or
  - (d) Have controlling shareholders in common that are related to the second civil degree; or
  - (e) receive or have received any direct or indirect subsidy from any of them; or
  - (f) have the same authorized representative for purposes of this Bid; or

- (g) participates in more than one bid either as a bidder or sub-contractor; or
  - (h) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder
  - (i) if any of the bidder's senior officers or controlling shareholders are related to any officer of the Purchaser who is involved with this procurement process.
- 4.4. A Bidder, and all parties constituting the Bidder, that is under a declaration of ineligibility for corrupt and fraudulent practices as described in **ITB Sub-Clause 3.1** issued by the either the Funding Agency or the GoC, at the date of contract award, shall be disqualified.
- 4.5. Government-owned enterprises in Cambodia may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Purchaser.
- 4.6. All bidders are required to complete and submit with their bids the appropriate forms listed in Section VII, Bidding Forms attached hereto.

## 5. One Bid Per Bidder

- 5.1 Each Bidder shall submit only one Bid.. A Bidder who submits or participates in more than one Bid will cause all the Bids with the Bidder's participation to be disqualified. However, this does not limit the participation of subcontractors in more than one bid, provided that the cost of sub-contracted goods or related services (including labor) do not exceed the percentage of the bid price stated in the **BDS** .

## 6. Cost of Bidding

- 6.1 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.

## **B Bidding Documents**

### **7. Content of the Bidding Document**

- 7.1 The goods required, bidding procedures, and contract terms are prescribed in the bidding documents. In addition to the Invitation for Bids, the bidding documents include:

- Section I, Instructions to Bidders
- Section II, Bid Data Sheet
- Section III, General Conditions of Contract
- Section IV, Special Conditions of Contract
- Section V, Specifications & Statement of Compliance
- Section VI, Schedule of Requirements
- Section VII, Bidding Forms
- Section VIII, Contract Forms

- 7.2 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the Bid.

### **8. Clarification of the Bidding Document**

- 8.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the **BDS**. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) days prior to the deadline for submission of Bids.
- 8.2 The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB **Clause 9. Amendment of the Bidding Document**.

### **9. Amendment of the Bidding Document**

- 9.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.

- 9.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser.
- 9.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to **ITB Clause 21 Deadline for Submission of Bids**.

## 10. Language of Bid

- 10.1 All documents relating to the Bid shall be in Khmer unless otherwise stated in the **BDS**.

## 11. Documents comprising the Bid

- 11.1 The bid prepared by the Bidder shall comprise the following components:
- (a) a Bid Submission Form and Price Schedule completed in accordance with **ITB Clauses 12 and 13**;
  - (b) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with **ITB Sub-Clause 11.1 (a)**;
  - (c) documentary evidence established in accordance with **ITB Clause 14** that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
  - (d) documentary evidence established in accordance with **ITB Clause 15** that the goods and related services to be supplied by the Bidder are eligible goods and services and conform to the bidding documents; and
  - (e) Bid Securing Declaration or Bid Security furnished in accordance with **ITB Clause 19**.

## 12. Bid Submission Form and Price Schedules

- 12.1 The Bidder shall submit the Bid Submission Form using the form furnished in Section VII, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested

- 12.2 The Bidder shall submit the Price Schedule for Goods and for Related Services, whenever Related Services are specified in the Schedule of Requirements, using the forms furnished in Section VII, Bidding Forms.

### **13. Bid Prices, Currency and Discounts**

- 13.1 All lots and items must be listed and priced separately in the Price Schedules.
- 13.2 The prices to be quoted in the Price Schedule shall be net and inclusive of all unconditional discounts offered.
- 13.3 Prices shall be quoted as specified in the Price Schedules included in Section VII, Bidding Forms. Prices shall be entered in the following manner:
- (a) For Goods:
    - (i) The price of the Goods delivered at the final destination (Project Site) specified in GCC Sub-Clause 1.1(k), including all customs duties and sales and other taxes already paid or payable, transportation, insurance and any other local services required to convey the Goods to their final destination.
    - (b) For Related Services, other than transportation, insurance and other local 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)
- 13.4 The Bidder's separation of price components in accordance with ITB Sub-Clause 13.3 above will be solely for the purpose of facilitating the comparison of bids by the Purchaser and will not in any way limit the Purchaser's right to contract on any of the terms offered.
- 13.5 All prices shall be quoted by Bidders in United States Dollars only. Payment to the Supplier under the contract shall be made in United States Dollars and Cambodian Riels in the proportions specified in GCC Sub-Clause 13.3.
- 13.6 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to adjustment on any account, unless otherwise specified in SCC Clause 12.1. A Bid submitted with an

adjustable price quotation, when a fixed price quotation is required, shall be treated as non-responsive and shall be rejected. However, if in accordance with SCC Clause 12.1, 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. Documents Establishing the Eligibility and Qualifications of the Bidder**

- 14.1 To establish their eligibility in accordance with **ITB Clause 4 Eligible Bidders**, Bidders shall provide the required information in the Bid Submission Form included in Section VII.
- 14.2 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) copies of original documents defining the constitution or legal status, place of registration, and principal place of business evidencing legal status in an eligible source country as defined in GCC Sub-Clause 6.1
  - (b) If indicated in the **BDS** that, in the case of a Bidder offering to supply goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to supply the goods in Cambodia;
  - (c) The Bidder shall furnish documentary evidence that its meets the following experience and financial requirements:
    - (i) that the Bidder has satisfactorily completed at least one contract for supply of similar goods in the preceding three years of not less than 50% of the bid price.
    - (ii) that the Manufacturer of the offered goods, if a different entity from the Bidder, has experience of at least 3 years in the manufacturing of similar goods.
    - (ii) that the Bidder has availability of liquid assets through either:

- access to a line of credit or cash in bank account of an amount at least 50% of the bid price, net of other contractual commitments;

OR

- credit terms with vendors specifically for the goods to be supplied under the contract, and valid for at least 6 months after the deadline date for submission of bids specified in ITB Clause 21.

Sub-contractors' qualifications shall not be taken into account in establishing the Bidder's qualifications to perform the contract.

- (d) that, in the case of a Bidder not doing business within Cambodia, the Bidder is or will be (if awarded the contract) represented by an Agent in Cambodia 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;
- (e) authority to seek references from the Bidder's bankers and
- (f) That the Bidder meets any additional qualification criteria listed in BDS.

## **15. Documents Establishing the Eligibility and Conformity of the Goods and Related Services**

- 15.1 The documentary evidence of conformity of the Goods and services to the Bidding Documents may be in the form of literature, drawings, and data, and shall consist of
- (a) Evidence that it is proposing the supply goods and services from an eligible source country as defined in GCC Sub-Clause 6.1
  - (b) a detailed description of the essential technical and performance characteristics of the Goods;
  - (c) 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 for a period to be specified in

the **BDS**, following commencement of the use of the Goods by the Purchaser; and

- (d) an item-by-item commentary on the Purchaser's Technical Specifications demonstrating substantial responsiveness of the Goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
  - (e) A declaration of the origin of the goods on the price schedule.
- 15.2 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Technical Specifications 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 designated in the Technical Specifications.
- 15.3 Bidders shall submit Bids, which comply with the Bidding Documents. Alternative Bids will not be considered.

## **16. Delivery Terms**

- 16.1 The Supplier shall be entirely responsible for the supply, including delivery, of the Goods and Related Services, if any, to the final destination (Project Site).

## **17. Format and Signing of Bids**

- 17.1 The Bidder shall prepare one original and three copies of the bid, clearly marking each "ORIGINAL BID" and "COPY OF BID," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 17.2 The original and the copy or copies of the bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. All pages of the bid, except for unamended printed literature, shall be initialed by the person or persons signing the bid.
- 17.3 The Bidder shall furnish information as described in the Bid Submission Form on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

- 17.4 The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Purchaser, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.

## 18. Bid Validity

- 18.1 Bids shall remain valid for the period specified in the **BDS** after the date of bid submission prescribed by the Purchaser, pursuant to **ITB Clause 21**. A bid valid for a shorter period shall be rejected by the Purchaser as non-responsive.
- 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. The Bid Securing Declaration or Bid Security requested in accordance with **ITB Clause 19**, shall also be extended for a corresponding period. A Bidder may refuse the request without executing its Bid Securing Declaration or forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 18.3 If, at the request of the Purchaser, the period of bid validity is extended beyond 60 days, the amounts payable shall be increased by  $\frac{1}{4}$  of 1 percent per month, or pro rata part thereof for the period of delay beyond 60 days after the expiry of the initial bid validity, up to the notification of award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.

## 19. Bid Securing Declaration and Bid Security

- 19.1 At the option of the Purchaser, the Bidder shall furnish as part of its Bid, either:
- (a) a Bid-Securing Declaration in original form as specified in the **BDS**,
  - or.**
  - (b) a Bid Security in the amount described in the **BDS**.

The **BDS** indicates which of the above options (a) or (b) is applicable and required by the Purchaser.

- 19.2 The Bid Securing Declaration when required should be in accordance with the form of Bid Securing Declaration included in Section VII, Bidding Forms, and shall be valid for 30 (thirty) days beyond the validity of the Bid.

- 19.3 The Bid Security when required shall, at the Bidder's option, be in the form of a certified check or guarantee, from a reputable bank located in Cambodia. Cash is not an acceptable form of Security. If in the form of a bank guarantee, the format of the Bid Security should be in accordance with the form of Bid Security (Bank Guarantee) included in Section VII, Bidding Forms. The Bid Security shall be valid for 30 (thirty) days beyond the validity of the Bid.
- 19.4 Any Bid not accompanied by an acceptable Bid Security when required or a Bid Securing Declaration when required will be rejected by the Purchaser as non-responsive.
- 19.5 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible and within seven days of the successful Bidder's furnishing of the performance security.
- 19.6 The Bid Security of the successful Bidder shall be returned once the 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 Bid Form, except as provided in **ITB Sub-Clause 18.2**.
  - (b) if the Bidder does not accept the correction of its Bid Price pursuant to **ITB Clause 27**,
  - (c) if the successful Bidder fails within the specified time to:
    - (i) sign the Contract; or
    - (ii) furnish the required performance security
- 19.8 The execution of a bid securing declaration will result in the bidders being held ineligible for all contracts let by the GoC irrespective of the funding source for a period of three years from the expiry of the Bid Validity, unless, at the bidder's option, the bidder pays an administrative penalty of 2 (two) percent of the total bid amount to the Purchaser.

## **C Submission of Bids**

### **20. Sealing and Marking of Bids**

- 20.1 The Bidder shall seal the original and each copy of the Bid in two separate sealed inner envelopes, duly marking the inner envelopes as “ORIGINAL” and “COPIES”. These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.2 The inner and outer envelopes shall
- (a) Bear the name and address of the Bidder;
  - (b) be addressed to the Purchaser at the address provided in the **BDS**;
  - (c) bear the name and identification number of this procurement indicated in ITB 1.1; and
  - (d) provide a warning “DO NOT OPEN BEFORE “ the specified time and date for Bid opening as defined in the **ITB Sub-Clause 21.1**.
- 20.3 If any envelope is not sealed and marked as required, the Purchaser shall assume no responsibility for the misplacement or premature opening of the bid.

### **21 Deadline for Submission of Bids**

- 21.1 Bids shall be delivered to the Purchaser at the address specified in **ITB Sub-Clause 20.2(b)**, and no later than the date and time, indicated in the **BDS**.
- 21.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by issuing an addendum in accordance with **ITB Clause 9**, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall then be subject to the new deadline.
- 21.3 Any Bid received by the Purchaser after the deadline prescribed in **ITB Sub-Clause 21.1** will be returned unopened to the Bidder.

### **22 Modification and Withdrawal of Bids**

- 22.1 Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in ITB Sub-Clause 21.1.

- 22.2 The withdrawal of a Bid between the deadline for submission of bids and within the Bid's validity (and extended validity when a bidder agrees to such) may result in the forfeiture of the Bid Security or execution of the Bid Securing Declaration pursuant to **ITB Clause 19**. No Bid may be modified after the deadline for submission of Bids.
- 22.3 Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with **ITB Clause 20**, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL," as appropriate.

### 23 Bid Opening

- 23.1 The Purchaser will open the bids, including modifications made pursuant ITB Clause 22 in the presence of the bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend at the time and in the place specified in the BDS.
- 23.2 Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to **ITB Clause 22** shall not be opened but returned to the Bidder.
- 23.3 The bidders' names, the Bid prices, the total amount of each Bid and any discounts, Bid modifications and withdrawals, the presence or absence of Bid Security or Bid Securing Declaration, and such other details as the Purchaser may consider appropriate, will be read out at the opening.
- 23.4 Bids (and modifications) that are not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.
- 23.5 The Purchaser will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with **ITB Sub-Clause 23.3** announced by the Purchaser at the opening. The minutes shall be signed in original by all those present at the bid opening. Immediately upon conclusion of the bid opening proceedings, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening. In addition, a copy of the minutes shall promptly be posted at a prominent and freely accessible location outside the office of the Purchaser, and also sent to all those who purchased the bidding documents but were not present at the bid opening.

## **D Evaluation of Bids**

### **24 Process to be Confidential**

- 24.1 Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced.
- 24.2 Any effort by a Bidder to influence the Purchaser's processing of bids or award decisions may result in the rejection of its Bid.
- 24.3 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 bid, it should do so in writing

### **25 Clarification of Bids**

- 25.1 To assist in the examination, evaluation, and comparison of bids, the Purchaser may, at the Purchaser's discretion, ask any Bidder for clarification of the Bidder's Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex, or facsimile, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the bids in accordance with **ITB Clause 27**.

### **26 Preliminary Examination of Bids**

- 26.1 The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.
- 26.2 If any of the following documents or information is missing from the submitted Bid, the Bid shall be rejected:

- (a) A Signed (in original) Bid Submission Form, in the format indicated in Section VII, Bidding Forms;
  - (b) Bid Securing Declaration or Bid Security, in accordance with **ITB Clause 19**;
  - (c) The Price Schedule in accordance with **ITB Clause 13**;
  - (d) Written confirmation of authorization to commit the Bidder, and
  - (e) Manufacturer's Authorization if required, in accordance with **ITB Sub-Clause 14.2(b)**
- 26.3 If a Bid is not substantially responsive, it will be rejected by the Purchaser, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation
- 26.4 A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one
- (a) which affects in any substantial way the scope, quality, or performance of the Contract;
  - (b) which limits in any substantial way, inconsistent with the bidding documents, the Purchaser's rights or the Bidder's obligations under the Contract; or
  - (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

## 27 Errors and Omissions

- 27.1 Arithmetical errors will be rectified on the following basis.
- (a) If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail. If the Supplier does not accept the correction of the errors, its bid will be rejected, and its bid security may be forfeited.
  - (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.

27.2 Omissions will be rectified as follows:

- (a) If the item is included in the bidder's price schedule with no unit and no total price, the item will be assumed to be included in the cost of other items; and
- (b) For the purposes of evaluation only, if an item is not included in a bidder's price schedule but was included in the bidding document's Schedule of Requirements and the omission is regarded as a non-material deviation in accordance with **ITB Sub-Clause 26.4**, the total cost times 110% of the most expensive bid for that item will be added to the bid containing the omission.

## 28 Evaluation of Responsive Bids

- 28.1 The Purchaser will evaluate and compare the bids which have been determined to be substantially responsive, pursuant to ITB Sub-Clause 26.4.
- 28.2 To evaluate a Bid, the Purchaser shall only use the factors, methodologies and criteria defined in ITB Clause 28. No other criteria or methodology shall be permitted.
- 28.3 Evaluation shall be done on the basis of Items or Lots, as specified in the **BDS**; and the Bid Price as quoted in accordance with ITB Clause 13, subject to correction of arithmetic errors in accordance with ITB Clause 27.1 and adjustment for omissions in accordance with ITB Clause 27.2.
- 28.4 If so allowed and indicated in the **BDS** the Purchaser's evaluation of a bid will take into account, in addition to the bid price quoted in accordance with **ITB Clause 13** one or more of the following factors, and quantified in the **BDS**.
  - (a) delivery schedule offered in the bid;
  - (b) the cost of components, mandatory spare parts, and service, and
  - (c) other specific criteria indicated in the **BDS** and/or in the Technical Specifications
- 28.5 The Purchaser reserves the right to accept or reject any non-material variation or deviation. Variations and deviations and other factors which are in excess of the

requirements of the bidding documents or otherwise result in unsolicited benefits for the Purchaser will not be taken into account in Bid evaluation.

28.6 If so specified in the **BDS**, these Bidding Documents shall allow Bidders to quote separate prices for one or more complete lots, and shall allow the Purchaser to award one or multiple lots to one or more Bidders. The methodology of evaluation to determine the lowest evaluated lot combination(s) is specified in the **BDS**.

## ***E Post Qualification and Award***

### **29 Post Qualification**

29.1 The Purchaser will determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated responsive bid is qualified to perform the contract satisfactorily, in accordance with the criteria listed in **ITB Sub-Clause 14**.

29.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to **ITB Sub-Clause 14.2** and any clarifications in accordance with **ITB Sub-Clause 25.1**, as well as such other information as the Purchaser deems necessary and appropriate.

29.3 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Purchaser will proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

### **30. Purchaser's Right to Accept or Reject any Bid**

30.1 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or bidders

### **31. Award Criteria**

31.1 Subject to **ITB Clause 28**, the Purchaser will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and has been

determined to be the lowest evaluated bid, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

### **32. Purchaser's Right to Vary Quantities**

- 32.1 The Purchaser reserves the right at the time of contract award to increase or decrease, by up to fifteen percent (15%) of the overall bid value, the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.

### **33. Notification of Award and Signing of the Contract**

- 33.1 Prior to the expiration of the period of bid validity, the Purchaser will notify the successful Bidder in writing by hand delivered letter or facsimile, that its bid has been accepted
- 33.2 The notification of award will constitute the formation of the Contract.
- 33.3 At the time of notification of award, the Purchaser will send the successful bidder the Contract Form provided in those Bidding Documents, incorporating all agreements between the Parties.
- 33.4 Within fourteen (14) days of receipt of such Contract Form the successful bidder shall sign and date the Contract and return it to the Purchaser.

### **34. Performance Security**

- 34.1 Within fourteen (14) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section VIII, Contract Forms.
- 34.2 The Performance Security in the form of a Bank Guarantee shall be issued by a reputable bank located in Cambodia and acceptable to the Purchaser.
- 34.3 Failure of the successful Bidder to comply with the requirements of **ITB Clause 34** shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security or execution of the Bid Declaration.

- 34.4 Upon receipt of the Performance Security, the Purchaser will promptly notify each unsuccessful bidder of the results of the bidding and return their Bid Securities or Bid Securing Declarations pursuant to ITB Sub-Clause 19.5.

### **35 Contract Effectiveness**

- 35.1 The contract will become effective and all delivery periods, liabilities and obligations will be calculated from the following date:
- (a) For contracts where an advance payment is requested, from the date of the Supplier's receipt of the advance payment, or
  - (b) For contracts funded by an irrevocable letter of credit, from the date of advisement of the letter of credit to the Supplier
  - (c) For contracts where no advance payment and no letter of credit is issued from the date of the signature by both parties of the contract.
- 35.2 When a contract allows for both an advance payment and payment by letter of credit the effective date shall be calculated from the Supplier's receipt of the advance payment

### **36. Debriefing**

- 36.1 After the award of contract has been announced an unsuccessful bidder has the right to request a debriefing to ascertain why its bid was unsuccessful and the Purchaser the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection.
- 36.2 Within 14 days of a bidder's request for Debriefing, the Debriefing will either be delivered in writing by the Purchaser or a meeting held chaired by a representative of the Purchaser at the discretion of the Purchaser. If a meeting is held it will be minuted and minutes signed by both parties and a copy of the minutes issued to the bidder.

### **37. Complaints**

- 37.1 A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints received during the evaluation period will be reviewed by the Purchaser and a response issued only after the evaluation is completed.

- 37.2 Complaints shall be addressed to the Project Manager named in the **BDS**. The Project Manager will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint.
- 37.3 In the event that the response from the Project Manager does not satisfy the bidder or there is no response to the complaint it should be referred to the designated official of the Department of Public Procurement at the address indicated in the BDS. A copy of the complaint should also be sent to the designated official of the Department of Investment and Cooperation and to the representative of the Funding Agency at the addresses indicated in the BDS. The Department of Public Procurement shall respond to the complaint within 14 calendar days. This is without prejudice to any other recourse that a bidder may choose.

### **38. Publication of Award**

38.1 The Purchaser shall

(i) notify in writing all participating bidders of the results of the bid evaluation promptly after the contract award has been notified to the successful bidder, and

(ii) publish in a national newspaper, promptly at the end of each quarter of the calendar year, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Purchaser.

## SECTION II, BID DATA SHEET

<b>A. General</b>	
<b>ITB 1.1</b>	The name and identification number of the procurement are: <i>[insert name and identification number]</i>
<b>ITB 2.1</b>	The name of the Project is <i>[insert name of project]</i> The amount of the Project is <i>[insert currency and amount]</i>
<b>ITB 5.1</b>	The limit for sub-contractors is <i>[insert percentage, usually no more than 30%]</i>
<b>ITB 8.1</b>	For <b>Clarification of bid purposes</b> only, the Purchaser’s address is:  Attention: <i>[insert name and room number of Project Officer]</i> Address: <i>[insert street name and number]</i>  <i>[insert floor and room number, if applicable]</i>  City: <i>[insert name of city or town]</i>  Cambodia  Telephone: <i>[insert telephone number including country and city codes]</i>  Facsimile number: <i>[insert fax number including country and city codes]</i>
<b>ITB 10.1</b>	State “ English” if the bidding document is issued in English ; otherwise remove this ITB 10.1 from BDS
<b>ITB 14.2(b)</b>	State whether a manufacturer’s authorization form is required.
<b>ITB 14.2(f)</b>	Insert any other qualification criteria
<b>ITB 15.1(c)</b>	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>[insert duration ]</i>
<b>ITB 18.1</b>	The bid validity period shall be <i>[insert number]</i> days.
<b>ITB 19.1</b>	<i>[Select one of the following two options. If the procurement is partially or wholly funded from external resources, such as by the World Bank or the Asian Development Bank, select option (a). If the procurement is</i>

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	<p><i>wholly funded by GoC, then either one of options (a) or (b) can be selected].</i></p> <p>(a) Bid shall include a Bid-Securing Declaration using the form included in Section VII, Bidding Forms;</p> <p><b>OR</b></p> <p>(b) Bid shall include a Bid Security issued by a reputable bank in Cambodia using the form for bid security included in Section VII, Bidding Forms. The Bid Security shall be <i>[insert amount in US. It should be the same as provided in the Invitation to Bid]</i>.</p>
<b>ITB 20.4(b)</b>	<p>For bid submission purposes, the Purchaser’s address is:</p> <p>Attention of: <i>[insert full name of person, if applicable, or insert name of the Project Officer]</i></p> <p>Address: <i>[insert street name and number]</i></p> <p>Floor-Room number: <i>[insert floor and room number, if applicable]</i> <i>[important to avoid delays or misplacement of bids]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>Cambodia</p>
<b>ITB 21.1</b>	<p>The deadline for the submission of bids is:</p> <p>Date: <i>[insert day, month, and year, e.g. 15 June, 2005]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m., e.g. 10:30 a.m.]</i></p>
<b>ITB 23.1</b>	<p>The bid opening shall take place at:</p> <p>Street Address: <i>[insert street address and number]</i></p> <p>Floor/ Room number: <i>[insert floor and room number, if applicable]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p align="center">Cambodia</p> <p>Date: <i>[insert day, month, and year, e.g. 15 June, 2005]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m., e.g. 10:30 a.m.]</i></p> <p><i>The date and time of bid opening should be identical to the date and time stated as the deadline for submission of bids.</i></p>
<b>ITB 28.3</b>	<p>Bids will be evaluated on <i>item-wise or lot-wise basis [select one that is applicable]</i></p>

<p><b>ITB 28.4(a)</b></p>	<p><i>State either:</i></p> <p>“Not applicable - Time is of the essence, the Purchaser requires that the goods under the Invitation for Bids shall be delivered to site at the time specified in the Schedule of Requirements. Bids that offer delivery beyond the time specified will be rejected as non-responsive. ”</p> <p><i>Or, select the following factor for evaluation:</i></p> <p>“The delivery offered in a bidders bid will be evaluated as follows</p> <p>The goods covered under this invitation are required to be delivered to site within an acceptable range of weeks specified in the Schedule of Requirements. No credit will be given to earlier deliveries, and bids offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment of 1/10 of one percent per day will be added for evaluation to the bid price of bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.”</p>
<p><b>ITB 28.4(b)</b></p>	<p><i>State either “Not applicable” Or, select the following factor for evaluation</i></p> <p>“The cost of spare parts will be evaluated as follows:</p> <p>The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during <i>[insert period of operation]</i>, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each bid, will be added to the bid price.”</p>
<p><b>ITB 28.4(c)</b></p>	<p><i>State either “Not Applicable” Or, List here any additional evaluation criteria.</i></p>
<p><b>ITB 28.6</b></p>	<p>Bidders <i>[insert “shall “or “shall not”]</i> be allowed to quote separate prices for one or more lots.</p> <p><i>If bidders are allowed to quote for separate lots retain the following wording:</i></p> <p>“The Purchaser shall award contract(s) for multiple lots to the Bidder that offer the lowest evaluated combination(s) of bids and meets the post-qualification criteria.</p> <p>The Purchasers evaluation shall take into account:</p>

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	<p>(i) the lowest-evaluated bid for each lot and</p> <p>(ii) Any price reduction per lot and the methodology for its application as offered by the Bidder in its bid”</p>
<b>ITB 37.2</b>	<p>The Project Manager is <i>[Insert name and address including telephone, fax and email]</i></p>
<b>ITB 37.3</b>	<p><i>For the World Bank State:</i></p> <p>Task Team Leader <i>[insert project name, and address including telephone, fax and email]</i></p> <p><i>For the Asian Development Bank State, deleting the above</i></p> <p>Task Team Leader <i>[insert project name, and address including telephone, fax and email]</i></p> <p>The Country Director is <i>[Insert name and address including telephone, fax and email]</i></p>

## SECTION III, GENERAL CONDITIONS OF CONTRACT

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**1. Definitions**

- 1.1. In this Contract, the following terms shall be interpreted as indicated:
- (a) “The Contract” means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein as named and referenced in the **SCC**.
  - (b) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
  - (c) “The Goods” means all of the equipment, machinery, and/or other materials which the Supplier is required to supply to the Purchaser under the Contract.
  - (d) “The Services” means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other Related Services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
  - (e) “GCC” means the General Conditions of Contract contained in this section.
  - (f) “SCC” means the Special Conditions of Contract.
  - (g) “The Purchaser” means the organization purchasing the Goods, as **named in SCC**.
  - (h) “The Purchaser’s country” is Cambodia.
  - (i) “The Supplier” means the individual or firm supplying the Goods and Services under this Contract and **named in SCC**.
  - (j) “GoC” means the Government of Cambodia.
  - (k) “The Funding Agency mean the organization named in the **SCC**
  - (l) “The Project Site,” where applicable, means the place or places **named in SCC**.
  - (m) “Day” means calendar day

**2. Application**

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

**3. Fraud and Corruption**

- 3.1 The Funding Agency requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and

consultants observe the highest standard of ethics during the procurement and execution of contracts.. In pursuance of this policy, both the Funding Agency and the GoC:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) *“corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and*
  - (ii) *“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the GoC of the benefits of free and open competition;*
  - (iii) *“collusive practices” means a scheme or arrangement between two or more bidders, designed to establish bid prices at artificial, non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract;*
  - (iv) *“coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.;*
- (b) will declare a firm or individual ineligible, either indefinitely or for a stated period of time, to be awarded a contract funded both by the Funding Agency and the GoC if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for, or in executing, any contract.
- 3.2 The Funding Agency will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Funding Agency to remedy the situation
- 3.3 The Funding Agency and the GoC will have the right to require that Suppliers permit the Funding Agency and the GoC to inspect their accounts and records and other documents relating to the bid submission and contract performance and to have them audited by auditors appointed by the Funding Agency and the GoC.

**4. Language**

- 4.1. The language of the Contract is Khmer, unless otherwise stated in the SCC.

**5. Joint Venture, Consortium or Association**

- 5.1. 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.

**6. Eligibility**

- 6.1. **Eligible** suppliers, subcontractors, materials, equipment and services are those defined in the SCC.

**7. Notices**

- 7.1. 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.
- 7.2. A Notice shall be effective when delivered or on the Notice’s effective date, whichever is later.

**8. Applicable Law**

- 8.1. The Contract shall be governed by and interpreted in accordance with the laws of Cambodia.

**9. Resolution of Disputes**

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

- 9.2. The Cambodian Chamber of Commerce (CCC) may be asked by either party to provide the CV's of three available adjudicators, none of whom will be nationals of the Supplier's country should that country be other than Cambodia. Each party shall then strike off the name of one of the proposed adjudicators and the remaining one shall be appointed.
- 9.3. The Adjudicator shall be paid by the hour at the rate proposed by the CCC, together with reasonable expenses to cover accommodation, travel and communications as necessary. The cost shall be divided equally between the Purchaser and Supplier, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
- 9.4. All disputes arising in connection with the present Contract that cannot be resolved to the satisfaction of either one of the parties through adjudication may be referred to and settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The ruling of the Arbitrator shall be binding on both parties.
- 9.5. Notwithstanding any adjudication or arbitration proceedings no party shall commit an anticipatory breach of contract.

## **10. Scope of Supply**

- 10.1. The Goods and Related Services to be supplied shall be as specified in Section VI, Schedule of Requirements.

## **11. Delivery and Documents**

- 11.1. The Supplier shall be entirely responsible for the supply, including delivery, of the Goods and Related Services, if any, at the final destination (Project Site)..
- 11.2. Delivery of the goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier pursuant are specified in the **SCC**.

## **12. Contract Price**

- 12.1. Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the

Supplier in its bid unless otherwise specified in the **SCC**, with the exception of any price adjustments in the Purchaser's request for bid validity extension in accordance with **ITB Sub-Clause 18.3** or the Purchaser exercising its right to vary quantities at the time of award in accordance with **ITB Clause 32** as the case may be.

### **13. Payment**

- 13.1. The method and conditions of payment are **specified in SCC**
- 13.2. The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to **GCC Clause 11.2**, and upon fulfillment of other obligations stipulated in the Contract.
- 13.3. Payment shall be made in US Dollars and Cambodian Riels in the proportion specified in **SCC**. The portion of the payment in Cambodian Riels shall be made using the average exchange rate of selling and buying published by the Central Bank of Cambodia on the date of payment. If so specified in the **SCC**, the amounts of each payment will be adjusted, before deducting for Advance Payment, by applying the respective price adjustment factor to the payment amounts due.

### **14. Taxes and Duties**

- 14.1. A Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

### **15. Risk and Title**

- 15.1. Risk and title of for the goods shall pass upon delivery to the project site as described in the **GCC Clause 1.1(k)** and defined in the **SCC**.

### **16. Permits, Approvals and Licenses**

- 16.1. Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

### **17. Performance Security**

- 17.1. The Performance Security shall be provided to the Purchaser no later than 14 days after the Supplier's receipt of the Notification of award and shall be in an amount equal to 10% of the total Contract Price in the form of an

unconditional bank guarantee issued by a Cambodian Bank acceptable to the Purchaser, using the form included in Section VIII, Contract Forms. The Performance Security shall be valid until a date 1 calendar month beyond the date of final delivery date of the goods. The currency shall be that of the Contract.

- 17.2. Prior to the expiry of the performance security, the Supplier will provide to the Purchaser a second performance security in the form of an unconditional bank guarantee issued by a Cambodian Bank acceptable to the Purchaser using the form included in Section VIII, Contract Forms in the amount of 5% of the total contract price valid until a date 1 calendar month beyond the date of the expiry of the Supplier's warranty obligations as described in **GCC Clause 24**. Within seven (7) working days of receipt of the second performance security from the Supplier, the Purchaser shall return the first performance security to the Supplier.
- 17.3. 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. Confidentiality**

- 18.1. Subject to **GCC Clause 3** the Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance.
- 18.2. The provisions of this Clause shall survive completion or termination, for whatever reason, of the Contract.

## **19. Subcontracting**

- 19.1. The Supplier shall notify the Purchaser in writing and obtain the prior approval of the Purchaser before awarding any subcontract under the Contract if not already specified in the bid. Such notification by the Supplier, in the original bid or later, or approval by the Purchaser, if granted, shall not relieve the Supplier from any liability or obligation under the Contract.
- 19.2. Subcontracts shall comply with the provisions of GCC Clauses 3 and 6.

## 20. Standards

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

## 21. Packing and Marking

- 21.1. 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. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, 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.
- 21.2. 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 SCC**, and in any subsequent instructions ordered by the Purchaser.

## 22. Inspection and Tests

- 22.1. The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Purchaser. **SCC** and the Technical Specifications shall specify what inspections and tests the Purchaser requires, if any and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 22.2. 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.
- 22.3. 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.

- 22.4. Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser. The costs of any repeated tests and inspections necessitated by a failure of the goods to pass inspection will be to the Supplier's account and deducted from the sums due to the Supplier and the contract value reduced accordingly.
- 22.5. Any inspections and tests undertaken in no way relieve the Supplier of any of its obligations under the Contract.

### **23. Liquidated Damages**

- 23.1. With the exception of force majeure events as described in **GCC Clause 27** and subject to contract amendments described in **GCC Clause 28** if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, one tenth of one percent per day subject to a maximum of ten percent of the contract price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to **GCC Clause 31**.

### **24. Warranty**

- 24.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract.
- 24.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 24.3. This 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 Contract or any other time period indicated in the **SCC**.

- 24.4. The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 24.5. Upon receipt of such Notice, the Supplier shall, within 21 days, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 24.6. If the Supplier, having been notified, fails to remedy the defect(s) within 21 days, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.
- 24.7. Delays in remedial action beyond 21 days shall be subject to liquidated damages at the rate described in **GCC Clause 23** without prejudice to any other rights or remedies, which the Purchaser may have against the Supplier under the Contract.

**25. Patent Indemnity**

- 25.1. The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Cambodia.

**26. Limitation of Liability**

- 26.1. Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to **GCC Clause 25**.
  - (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.

**27. Force Majeure**

- 27.1. 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.

- 27.2. 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.

## 28. Change Orders

- 28.1. The Purchaser may at any time, by a written order given to the Supplier pursuant to **GCC Clause 7**, 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/or
  - (d) the Services to be provided by the Supplier
- 28.2. 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 delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier’s receipt of the Purchaser’s change order.
- 28.3. Subject to **GCC Clause 7**, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties

## 29. Extension of Time

- 29.1. If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier’s notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier’s time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.

- 29.2. Throughout the period of contract performance up to and including the Purchaser's acceptance of the goods the Supplier will provide monthly progress reports on the status of manufacturer, assembly, packing, consolidation and shipment as appropriate.

### 30. Spare Parts

- 30.1. As specified in **SCC**, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:
- (a) such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
  - (b) in the event of termination of production of the spare parts:
    - i. advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
    - ii. following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

### 31. Termination for Default

- 31.1. The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:
- (a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to **GCC Clause 29**; or
  - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
  - (c) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 31.2. For the purpose of **GCC Clause 31.1** "corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution. "fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the GoC, and includes collusive practice among Bidders

(prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the GoC of the benefits of free and open competition.

**32. Termination for Insolvency**

- 32.1. The Purchaser may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Supplier, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.

**33. Termination for Convenience**

- 33.1. The Purchaser, by written 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.
- 33.2. The Goods that are complete and ready for shipment within thirty (30) 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:
- (a) to have any portion completed and delivered at the Contract terms and prices; and/or
  - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.

**34. Assignment**

- 34.1. The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Purchaser's prior written consent.

**35. Transportation**

- 35.1 The Supplier is required under the Contract to transport the Goods to the final destination (Project Site). Transport to such final destination including insurance and storage, as specified in the Contract, shall be

arranged by the Supplier, and related costs are deemed to be included in the Contract Price. The Supplier shall be free to use transportation through carriers registered in any eligible country, in accordance with GCC sub-clause 6.1

**36. Insurance**

- 36.1 The Goods supplied under the Contract shall be fully insured in US Dollars against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery at the final destination (Project Site). The insurance shall be obtained by the Supplier in an amount equal to 110% of the value of the goods from “warehouse to warehouse” (final destination) on “All Risk” basis including War Risks and Strikes. The Supplier shall be free to provide insurance through firms registered in any eligible country, in accordance with GCC sub-clause 6.1

## SECTION IV, 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.

*[The Purchaser shall select insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]*

<b>1.1.1(a)</b>	<p><i>Insert the name and reference of the contract.</i></p> <p>And comprises of the following documents</p> <ul style="list-style-type: none"> <li>(a) The Contract Agreement</li> <li>(b) Special Conditions of Contract</li> <li>(c) General Conditions of Contract</li> <li>(d) Technical Requirements (including Schedule of Requirements and Technical Specifications)</li> <li>(e) The Supplier’s Bid and original Price Schedules</li> <li>(f) The Purchaser’s Notification of Award</li> <li>(g) <i>Insert here any other documents that will form part of the Contract such as drawings</i></li> </ul>
<b>GCC 1.1 (g)</b>	The Purchaser is: <i>[Insert complete legal name of the Purchaser]</i>
<b>GCC 1.1 (i)</b>	The Supplier is <i>[Insert complete legal name of the Purchaser]</i>
<b>GCC 1.1 (k)</b>	The Funding Agency is <i>state either “The Asian Development Bank” or “The World Bank” as Appropriate</i>
<b>GCC 1.1 (l)</b>	The Project Site(s)/Final Destination(s) is/are: <i>[Insert name(s) and detailed information on the location(s) of the site(s)]</i>
<b>GCC 4.1</b>	State “English” if the bidding document is issued in English; otherwise remove this GCC 4.1 from SCC.
<b>GCC 6.1</b>	<p><b><i>Insert the following Para. 1 if the procurement is funded by the World Bank or by the ADB</i></b></p> <p>1. “The Supplier , and all parties constituting the Supplier, shall have the nationality of an eligible country. The Supplier shall be deemed to have the nationality of a country if the Supplier is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of</p>

the Contract including related services.

The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries, in accordance with the countries listed below and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Contractors may be required to provide evidence of the origin of materials, equipment and services.

For purposes of this Clause, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the related services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components."

***Depending on whether the procurement is funded by WB or by ADB, select and insert the applicable Para. 2 :***

[2. For WB, Eligible Countries are:

The World Bank permits firms and individuals from all countries to offer goods, works and services for World Bank financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:

(a) as a matter of law or official regulation, the Borrower Country prohibits commercial relations with that Country, provided that the World Bank is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works 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 Borrower's Country prohibits any import of goods from that Country or any payments to persons or entities in that Country.]

[2. For ADB, Eligible Countries are:

[Insert here the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB's web page at [www.adb.org](http://www.adb.org).]

***Add the following para. 3 only when ADB or WB Special resources are being used that place specific limitations on eligibility of certain countries :***

	<p>3. In addition, the following countries are ineligible for this bidding:</p> <p><b>Insert the list of ADB or WB developed member countries which have not contributed to such special resources and therefore are excluded from this bidding.</b></p>
<p><b>GCC 7.1</b></p>	<p>The Purchasers address for notices is:</p> <p>Attention: <i>[ insert full name of person,</i>  Street Address: <i>[insert street address and number]</i>  Floor/ Room number: <i>[insert floor and room number, if applicable]</i>  City: <i>[insert name of city or town]</i>  Cambodia  Telephone: <i>[include telephone number, including country and city codes]</i>  Facsimile number: <i>[insert facsimile number, including country and city codes]</i>  Electronic mail address: <i>[insert e-mail address, if applicable.</i></p> <p>The Supplier’s address for notices is</p> <p>Attention: <i>[ insert full name of person,</i>  Street Address: <i>[insert street address and number]</i>  Floor/ Room number: <i>[insert floor and room number, if applicable]</i>  City: <i>[insert name of city or town]</i>  Country <i>[insert country]</i>  Telephone: <i>[include telephone number, including country and city codes]</i>  Facsimile number: <i>[insert facsimile number, including country and city codes]</i>  Electronic mail address: <i>[insert e-mail address, if applicable]</i></p>
<p><b>GCC 11.2</b></p>	<p><b>Sample provision</b></p> <p>Details of Documents to be furnished by the Supplier are <i>[insert shipping details and other documents].</i></p> <ul style="list-style-type: none"> <li>i) <i>[insert number]</i> copies of the Supplier’s invoice showing Goods’ description, quantity, unit price, and total amount;</li> <li>(ii) Original receipt issued by the Purchaser’s representative <i>[insert name and titles with contact details of the department or individual authorized to receive the goods at the Project Site]</i> at the project site ;</li> <li>(iii) Manufacturer’s or Supplier’s warranty certificate; and</li> <li>(v) Certificate of origin.</li> </ul>
<p><b>GCC 12.1</b></p>	<p><i>State either “No adjustments will be made”, if the Contract is less than</i></p>

	<p><i>18 months duration</i></p> <p><i>Or insert the following if the Contract is equal to or more than 18 months duration:</i></p> <p>“The payment shall be adjusted by increasing the payment amount by one third of one percent for each entire month starting from the nineteenth month after the date of contract signature.”</p> <p>.</p>
<p><b>GCC 13.1</b></p>	<p><b><i>Sample provision</i></b></p> <p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <ul style="list-style-type: none"> <li>(i) <b>Advance Payment:</b> Ten (10) percent of the Contract Price shall be paid within fourteen (14) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in Section VIII of the bidding documents.</li> <li>(ii) <b>Delivery to Project Site:</b> Eighty (80) percent of the Contract Price of the Goods delivered shall be paid, upon submission of documents specified in GCC Clause 12.</li> <li>(iii) <b>On Acceptance:</b> Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser.</li> </ul> <p>The Supplier may fore-go the advance payment at its own option in which instance the payment upon Delivery to Project Site will be increased to ninety (90) percent of the contract price of the goods delivered.</p>
<p><b>GCC 13.3</b></p>	<p>Proportion of the currencies for Payment: Payment shall be made in US Dollars and Cambodian Riel according to the following proportions:</p> <p>In US Dollars:.....% <i>[for externally financed contracts, insert the applicable percentage of reimbursement by the funding agency as specified in the loan/credit/grant agreement]</i></p> <p>In Cambodian Riels:.....% <i>[For externally financed contracts, insert the balance percentage representing the government counterpart contribution].</i></p>
<p><b>GCC 15.1</b></p>	<p>Risk and title shall pass on delivery to <i>[Insert name(s) and detailed</i></p>

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	<i>information on the location(s) of the site(s)]</i>
<b>GCC 21.2</b>	The packing, marking and documentation within and outside the packages shall be: <i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i>
<b>GCC 22.1</b>	The inspections and tests shall be: <i>[insert nature, frequency, procedures for carrying out the inspections and tests], or state</i>  “No tests are planned, however this in no way limits the Purchasers right to test any and all goods subject to the provisions of <b>GCC Clause 22.3</b> ”
<b>GCC 24.3</b>	In partial modification of GCC Clause 24.3 the warranty period will be <i>[insert period if not 12 months, or delete reference to his clause from the SCCs]</i>
<b>GCC 30.1</b>	<b><i>Sample provision</i></b>  The Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods. Other spare parts and components shall be supplied as promptly as possible, but in any case within one month of placing the order and opening the letter of credit.  <i>Delete this reference to this clause from the SCC if not applicable.</i>

## **SECTION V, TECHNICAL SPECIFICATIONS & STATEMENT OF COMPLIANCE**

### ***Notes for Preparing the Technical Specifications***

A set of precise and clear specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Entity without qualifying their bids. The specifications must accurately communicate the technical characteristics of both the goods and any related services that are required. In the context of Competitive Bidding, the specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of bid evaluation facilitated. The specifications should require that all goods and materials to be incorporated in the goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided for otherwise in the contract.

Samples of specifications from previous similar procurements are useful in this respect. The use of metric units is encouraged. Depending on the complexity of the goods and the repetitiveness of the type of procurement, it may be advantageous to standardize the General Technical Specifications and incorporate them in a separate subsection. The General Technical Specifications should cover all classes of workmanship, materials, and equipment commonly involved in manufacturing similar goods. Deletions or addenda should then adapt the General Technical Specifications to the particular procurement.

Care must be taken in drafting specifications to ensure that they are not restrictive. In the specification of standards for equipment, materials, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards or other standards, the specifications should state that equipment, materials, and workmanship that meet other authoritative standards, and which ensure at least a substantially equal quality than the standards mentioned, will also be acceptable. The following clause may be inserted in the Special Conditions of Contract or the Technical Specifications.

### **Sample Clause: Equivalency of Standards and Codes**

Wherever reference is made in the Technical Specifications to specific standards and codes to be met by the goods and materials to be furnished or tested, the provisions of the latest current edition or revision of the relevant shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national or relate to a particular country or region, other authoritative standards that ensure substantial equivalence to the standards and codes specified will be acceptable.

Reference to brand name and catalogue number should be avoided as far as possible; where unavoidable they should always be followed by the words “or at least equivalent.”.

Where appropriate, drawings, including site plans as required, may be furnished by the Purchaser with the bidding documents. Similarly, the Supplier may be requested to provide drawings or samples either with its bid or for prior review by the Purchaser during contract execution.

Bidders are required to also as part of the technical specifications complete their statement of compliance demonstrating how the items comply with the specification.

## Technical Specifications

Item	Specification	<p><b>Statement of Compliance</b> Bidders must state here either “Comply” or “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” of must be supported by evidence in a bidders bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer’s un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc. as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the bid under evaluation liable for rejection. A statement either in the bidders statement of compliance or the supporting evidence that is found to be false either during evaluation or the execution of the contract may be regarded as fraudulent and render the bidder or supplier liable for prosecution and subject to the provisions of <b>ITB Clause 3. Fraud and Corruption</b> and <b>GCC Clause 31.</b></p>

## **SECTION VI, SCHEDULE OF REQUIREMENTS**

The Schedule of Requirements shall be included in the bidding documents by the Purchaser, and shall cover, at a minimum, a description of the goods and services to be supplied and the delivery schedule.

The objective of the Schedule of Requirements is to provide sufficient information to enable bidders to prepare their bids efficiently and accurately, in particular, the Price Schedules, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedules, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITB Clause 32. Purchaser's Right to Vary Quantities.

The date or period for delivery should be carefully specified, noting that delivery periods will only commence from the date of contract effectiveness as described in ITB Clause 35 Contract Effectiveness.

Any services required should also be included in both the Schedule of Requirements and the Technical Specifications

## Schedule of Requirements

*[The Purchaser shall fill in this table, with the exception of the column “Bidder’s offered Delivery date” to be filled by the Bidder]*

Item N°	Description of Goods	Quantity	Physical unit	Delivery Final Destination (Project Site) as specified in GCC 1.1 (I)	Delivered to Final Destination (project site) by		
					Earliest Delivery Date	Latest Delivery Date	Bidder’s offered Delivery date <i>[to be provided by the bidder]</i>
<i>[insert item No.]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of each item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>

## 2. List of Related Services and Completion Schedule

*[ This table shall be filled in by the Purchaser. The Required Completion Dates should be realistic, and consistent with the required Goods Delivery Dates]*

<b>Service</b>	<b>Description of Service</b>	<b>Quantity<sup>1</sup></b>	<b>Physical Unit</b>	<b>Place where Services shall be performed</b>	<b>Final Completion Date(s) of Services</b>
<i>[insert Service No]</i>	<i>[insert description of Related Services]</i>	<i>[insert quantity of items to be supplied]</i>	<i>[insert physical unit for the items]</i>	<i>[insert name of the Place]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>

1. If applicable

## **SECTION VII, BIDDING FORMS**

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### Bidder Information Form

*[The Bidder shall fill in this Form in accordance with the instructions indicated below. In case of Joint Venture, Consortium, Association, the required information should be provided for each party including subcontractors. 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]*  
NCB No.: *[insert number of bidding process]*

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

1. Bidder's Legal Name <i>[insert Bidder's legal name]</i>
2. Bidder's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
3. Bidder's Year of Registration: <i>[insert Bidder's year of registration]</i>
4. Bidder's Legal Address in Country of Registration: <i>[insert Bidder's legal address in country of registration]</i>
5. 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>
6. 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 Registration of firm named in 1, above. In case of JV, letter of intent to form JV or JV agreement.  <input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.

## Bid Submission Form

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

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

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: *[insert the number and issuing date of each Addenda]*;
- (b) 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 and Related Services *[insert a brief description of the Goods and Related Services]*;
- (c) The total price of our Bid, including any discounts offered is: *[insert the total bid price in words and figures]*;
- (d) Our bid shall be valid for the period of time specified in ITB Sub-Clause 18.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 21.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (e) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 34 and GCC Clause 17 for the due performance of the Contract;
- (f) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality of each subcontractor and supplier]*
- (g) We have no conflict of interest in accordance with ITB Sub-Clause 4.3;
- (h) Our firm, its affiliates or subsidiaries, including suppliers for any part of the contract, has not been declared ineligible by the Funding Agency, under the Purchaser's country laws or official regulations, in accordance with ITB Sub-Clause 4.4;
- (i) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name*

**National Standard Bidding Documents, Procurement of Goods**

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*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.”)

- (k) We understand that this bid, together with your written acceptance thereof included in your notification of award, shall constitute a binding contract between us, until a formal contract is prepared and executed.
- (l) We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.

Signed: *[signature of person authorized by the Bidder to sign the bid submission form, and whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

The **Bidder** shall fill in and submit this form with the Bid.

**Statement on Ethical Conduct and Fraud and Corruption**

We the undersigned confirm in the preparation of our bid that:

1. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
2. Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
3. That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
4. We understand our obligation to allow the Government or the funding agency be the Asian Development Bank or World Bank to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
5. That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.

Signed: *[signature of person authorized by the Bidder to sign the bid submission form and whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

**Price and Completion Schedule – Goods**

Date: \_\_\_\_\_  
 NCB No: \_\_\_\_\_  
 Page N° \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7
Item No.	Description of Goods	Delivery Date	Country of origin	Quantity and Physical Unit	Unit price per item delivered at Final Destination (Project Site) <sup>1</sup>	Total price per item (cols. 5 x 6) delivered at Final Destination (Project Site) <sup>1</sup>
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert quoted Delivery Date]</i>	<i>Insert the country of origin of the Goods</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item in US Dollars]</i>	<i>[insert total price per item in US Dollars]</i>
Name of Bidder <i>[insert complete name of Bidder]</i>						<i>[Insert total price of Goods]</i>
Signature of Bidder <i>[signature of person signing the Bid]</i> Date <i>[insert date]</i>						

<sup>1</sup> Currency to be used is US Dollars. The price shall include all customs duties and sales and other taxes already paid or payable, transportation, insurances, and any other local costs for delivery of the goods up to final destination.

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

## Price and Completion Schedule - Related Services

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

NCB No: \_\_\_\_\_

Page N° \_\_\_\_\_ of \_\_\_\_\_

1	2	3	4	5	6	7
Service N°	Description of Services (other than transportation, insurance and other local services required to convey the goods to their final destination)	Country of Origin	Delivery Date at Final destination (Project Site)	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6)
<i>[insert number of the Service ]</i>	<i>[insert name of Services]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>
Total Price Related Services						<i>[insert total price of Related Services]</i>
Name of Bidder <i>[insert complete name of Bidder]</i>					<b>Total Bid Price (Goods and Related Services)</b>	
Signature of Bidder <i>[signature of person signing the Bid]</i> Date <i>[insert date]</i>						
						<i>[insert total Bid Price of Goods and Related Services]</i>

## Manufacturer's Authorization

*[If indicated in ITB Sub-Clause 14.2(b) and required in the BDS, 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]*  
NCB No.: *[insert number of bidding process]*  
Alternative No.: *[insert identification No if this is a Bid for an alternative]*

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 24 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]*

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

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

## Bid Security (Bank Guarantee)

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

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

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

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

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

We have been informed that *[insert name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of Contract]*.

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

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

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Bid Submission Form; or
- (b) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity as stated in the Bid Submission Form or extended by the Employer at any time prior to expiration of this period, (i) fails or refuses to execute the Contract, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This Guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder; or (ii) 30 (thirty) days after the expiration of the Bidder's Bid.

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

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

[Signature(s) of authorized bank's representative(s)]

## Bid-Securing Declaration

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

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
2. 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 3 (three) years starting from the expiry of the bid validity, or pay to the Purchaser two percent (2%) of the total bid amount as penalty,, 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 by us in the Bidding Data Sheet; 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, if required, or (ii) fail or refuse to furnish the Performance Security, in accordance with ITB Clause 34.
3. We understand this bid securing declaration shall expire: (a) if we are the successful bidder, upon receipt of copies of the Contract signed by us and of the Performance Security provided by us; or (b) if we are not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to us that we were unsuccessful; or (ii) thirty days after the expiration of our bid..

Signed: *[signature of person authorized by the Bidder to sign the bid submission form, and whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

## **SECTION VIII, CONTRACT FORMS**

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## Contract Agreement

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

THIS CONTRACT AGREEMENT is 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 Cambodia, or corporation incorporated under the laws of Cambodia and having its principal place of business at [ insert address of Purchaser ] (hereinafter called “the Purchaser”), 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”).*

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 in the sum of *[insert Contract Price in words and figures, expressed in United States Dollars]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:
  - (a) This Contract Agreement
  - (b) Special Conditions of Contract
  - (c) General Conditions of Contract
  - (d) Technical Requirements (including Schedule of Requirements and Technical Specifications)
  - (e) The Supplier’s Bid and original Price Schedules
  - (f) The Purchaser’s Notification of Award

(g) *[Add here any other document(s)]*

3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, 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.
5. 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 Cambodia 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

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

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

Bank's Branch or Office: *[insert complete name of Guarantor]*

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

**PERFORMANCE GUARANTEE No.:** *[insert Performance Guarantee number]*

We have been informed that *[insert complete name of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[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 Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)<sup>3</sup> in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]* *[insert year]*,<sup>4</sup> and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

*[signatures of authorized representatives of the bank and the Supplier]*

---

<sup>3</sup> *The Bank shall insert the amount(s) specified in the GCC being 10% of the Contract Price stated in United States Dollars.*

<sup>4</sup> *Dates established in accordance with Clause 17 of the General Conditions of Contract ("GCC"). The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the Bank. 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: " We agree to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*

### Bank Guarantee for Advance Payment

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

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

NCB No. and title: *[insert number and title of bidding process]*

*[bank's letterhead]*

**Beneficiary:** *[insert legal name and address of Purchaser]*

**ADVANCE PAYMENT GUARANTEE No.:** *[insert Advance Payment Guarantee no.]*

We, *[insert legal name and address of bank]*, have been informed that *[insert complete name and address of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert date of Agreement]* with you, for the supply of *[insert types of Goods to be delivered]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance is to be made against an advance payment guarantee.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)<sup>5</sup> in figures and words]* upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

It is a condition for any claim and payment under this Guarantee to be made that the advance payment referred to above must have been received by the Supplier on its account *[insert number and domicile of the account]*

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[insert date<sup>6</sup>]*.

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

\_\_\_\_\_  
*[signature(s) of authorized representative(s) of the bank]*

<sup>5</sup> The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC in United States Dollars.

<sup>6</sup> Insert the Delivery date stipulated in the Contract Delivery Schedule. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the bank. 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: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

## **Annex III b**

# **National Shopping Documents**

# **The Procurement of Goods**

## Preface

*The use of this document is mandatory for all goods procurement under Shopping procedures with an estimated value below the threshold for National Competitive Bidding stated in Annex V of the Procurement Manual when the procurement is funded by the Government, the Asian Development Bank and the World Bank.*

*The World (WB) and Asian Development Banks' (ADB) guidelines for procurement describe a slightly different shopping process to those set out in this document. The processes set out in this document are the Government of Cambodia's and these processes have been agreed with both the ADB and WB for use on ADB and WB projects. Therefore when this document is used no conflict exists between the Government's and Banks' procurement processes, accordingly the processes set out in this document must be followed.*

*All goods procurement under Shopping procedures with an estimated value above the threshold stated in Annex V of the Procurement Manual must be advertised in the Khmer language in a provincial or national newspaper of wide circulation that has been continuously published for a period of not less than two years. Any interested party may obtain the bidding documents and submit a bid, including foreign firms, free of charge*

*For goods procurement under Shopping procedures with an estimated value below the threshold stated in Annex V of the Procurement Manual there is no need to advertise and the document may be sent directly and free of charge to as many as reasonably possible of reputable and qualified firms known to be in the business of supplying the goods for which the bids are being invited, so as to ensure that at least three bids are received in response.*

*Bidders will be required to submit sealed bids which will be opened in public but they will not be required to provide a bid security, only a bid and performance securing declaration as described in the attached documents. Representatives of Bidders or of Project beneficiaries from the local community who choose to attend the public opening of quotations shall be allowed to do so*

*The time period between the appearance of the advertisement and the opening of sealed bids will be at least 14 days.*

***This preface is to be deleted from the document issued to bidders.***

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## INVITATION TO BID

### THE *[INSERT NAME OF THE PURCHASER]*

#### Wishes to purchase:

#### *Insert brief description of the goods*

1. The goods are required to be supplied by *[insert date of expected delivery, in terms of number of days/weeks from the date of contract]*.
2. Interested qualified eligible suppliers are invited to obtain a copy of the bidding documents free-of-charge from the address given below by submitting a written application. Except for the submission of a written application, there shall be no other conditions for obtaining the bidding documents.
3. To be considered eligible and qualified a firm or individual must
  - a) Be from a ADB member country *[delete this requirement when the funding is not ADB]*
  - b) Have completed within the last 3 years at least one contract of a similar nature of at least 50% of the value of the bid.
  - c) Have completed in the last 2 years, contracts with a total cumulative value of three times that bid.
  - d) Not be under any notice of disbarment issued by the Government, The Asian Development Bank or the World Bank.
4. Bids must be delivered to the address given below at or before *[insert time and date]*. Late bids will be rejected. Bids will be opened in public immediately thereafter at the address given below in the presence of the Bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend shall be allowed to be present in person.
5. The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
6. All bids must be accompanied by a bid securing declaration as described in the bidding documents, any bid not accompanied by one will be rejected as non-compliant
7. The address where the document may be inspected and obtained is:  
*[Insert name of Executing Agency, Office designation (room number), name of concerned officer in Executing Agency,, Street address, City, and telephone and fax numbers]*.
8. In case of any difficulty in obtaining the bidding documents, interested parties may contact in writing *[insert name, position, complete address, telephone and fax numbers]*

*of government officer who should be in higher position in the Executing Agency than the official specified above] and also send a copy of the communication to [insert designation, address, telephone and fax number of concerned MEF official].*

9. The address for bid submission and bid opening is:  
*[Insert name of Executing Agency, Office designation (room number), name of officer, street address, City)*
  
10. The Government of Cambodia and/or the Funding Agency will declare a firm ineligible either indefinitely or for a stated period of time, to be awarded a contract financed by the Government of Cambodia and/or the Funding Agency respectively, if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for or in executing a contract

## SECTION 1. INSTRUCTIONS TO BIDDERS

1. **Goods:** The \_\_\_\_\_ (*insert Name of the Purchaser*), as the Purchaser, invites bids for the supply of \_\_\_\_\_ (*insert brief description of the Goods*) as described in the Conditions of Contract (CC). The successful bidder will be expected to deliver the Goods within the time allowed under the Conditions of Contract
  
2. GoC has received funding from \_\_\_\_\_ (the Funding Agency) towards the cost of the \_\_\_\_\_ (*insert name of Project*). The Purchaser intends to apply a portion of the proceeds of the funding to eligible payments under the contract(s) for which these Bidding Documents are issued. No payment shall be made to persons or entities for any import of goods, if such payment or import is prohibited by a decision of the United Nation's Security Council, taken under chapter VII of the Charter of the United Nation.
  
3. **Eligibility and Qualifications of the Bidder:** Only bidders that meet the following criteria will be eligible for an award of contract:
  - a) Those from a ADB member country [*delete this requirement when the funding is not ADB*]
  - b) Have completed within the last 3 years at least one contract of a similar nature of at least 50% of the value of the bid.
  - c) Have completed in the last 2 years contracts with a total cumulative value of three times that bid.
  - d) Not be under any notice of disbarment issued by the Government, The Asian Development Bank or the World Bank.

The bidder shall be required to provide documentary evidence with its bid to demonstrate that it meets the above requirements..
  
4. **Fraud and Corruption.** The Funding Agency requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and consultants observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the Government of Cambodia (GoC) and the Funding Agency:
  - (a) defines, for the purposes of this provision, the terms set forth below as follows:
    - (i) "*corrupt practice*" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and

- (ii) *“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the GoC of the benefits of free and open competition;*
- (iii) *“collusive practices” means a scheme or arrangement between two or more bidders, designed to establish bid prices at artificial, non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract;*
- (iv) *“coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.;*
- (b) will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent, coercive or collusive practices in competing for the contract in question;
- (c) will respectively declare a firm or individual ineligible, either indefinitely or for a stated period of time, to be awarded a contract funded by the GoC and the Funding Agency if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for, or in executing, any contract.
- (d) will have the right to inspect and audit the records of any bidder or supplier relating to either the bidding process itself or the resulting award and execution of a contract. The inspection and audit may, at the discretion of the GoC or the Funding Agency be undertaken by independent auditors appointed by them.
- (e) The Funding Agency will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Funding Agency to remedy the situation.
- (f) All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption provided in and submit it with their bid.

**5. Contents of Bid Documents:** The set of Bid documents comprises the documents listed below:

- Invitation to Bid
- SECTION 1. INSTRUCTIONS TO BIDDERS
- SECTION 2. CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS
- SECTION 3. PRICE AND DELIVERY SCHEDULE

SECTION 4. TECHNICAL SPECIFICATIONS AND DRAWINGS  
SECTION 5. FORM OF BID  
SECTION 6. FORM OF CONTRACT AGREEMENT  
SECTION 7. BID AND PERFORMANCE SECURING  
DECLARATION

- 6. Documents Comprising the Bid:** The Bid submitted by the Bidder shall comprise the following documents:

Form of Bid  
Price and Delivery Schedule  
Bid and Performance Securing Declaration

- 7. Bid and Evaluation Criteria:** ..... [*Select one of the following two options, deleting the other*]

“The Bidder must bid for all the required items on lot basis, and the evaluation of bids shall also be lot-wise,”

*OR*

“The Bidder may bid for one or more of the required items, and the evaluation of bids shall also be item-wise”

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.

- 8. Bid Prices:** Prices should be quoted in US Dollars for the Goods delivered at the final destination (Project Site) specified in the Price and Delivery Schedule, inclusive of all costs such as customs duties, sales and other taxes paid or payable if the contract is awarded, transportation, insurance, and other local charges required for conveying the goods to the final destination. Prices shall remain fixed and not subject to price adjustment during the period of performance of the contract.
- 9. Validity of Bid.** The bid shall remain valid for the period of sixty (60) calendar days counted from the deadline for submission of bids specified in Paragraph 12 of these Instructions. The Purchaser may request Bidders to extend the period of validity for a specified additional period. The Purchaser’s request and the Bidder’s responses shall be made in writing or by fax or by cable. A Bidder may refuse the request for extension of bid validity in which case he may withdraw his Bid without any penalty. A Bidder agreeing to the request will not be required or permitted to otherwise modify its Bid.
- 10. Language of the Bid:** All documents relating to the Bid and contract shall be in Khmer language
- 11. Preparation and Sealing of Bid:** The Bidder shall prepare one original of the documents comprising the Bid as described in Paragraph 6 of these Instructions, and clearly marked “Original”. In addition, the Bidder shall also submit one copy which shall

be clearly marked as “COPY”. In the event of discrepancy between them the original shall prevail. The original and the copy of the Bid shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. All the pages of the Bid where entries or amendments or corrections have been made shall be initialed by the person or persons signing the Bid. The Bidder shall seal the original and the copy of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as “ORIGINAL” and “COPY”. The inner and the outer envelopes shall be addressed to the Purchaser at the address provided in paragraph 8 the Invitation to Bid and shall provide a warning “DO NOT OPEN BEFORE THE SPECIFIED TIME AND DATE FOR BID OPENING” as defined in paragraph 12 of these Instructions. The inner envelopes shall indicate the name and full address of the Bidder. If the outer envelope is not sealed and marked as above, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid.

**12. Place and Deadline for Submission of Bids:** The Bids shall be delivered to the Purchaser NO LATER than \_\_\_\_\_(time, date) at the address given in paragraph 8 of the Invitation for Bids. Any Bid received by the Purchaser after the deadline prescribed in this clause will be returned unopened to the Bidder.

**13. Bid and Performance Securing Declaration:** The Bid and Performance Securing Declaration should be in accordance with the form included in SECTION 7 BID AND PERFORMANCE SECURING DECLARATION and shall be valid for the warranty period described in paragraph 7 of the Conditions of Contract. Any Bid not accompanied by a Bid and Performance Securing Declaration will be rejected by the Purchaser as non-responsive. The execution of a bid securing declaration will result in the Bidder being held ineligible for all contracts let by the GoC irrespective of the funding source for a period of two years from the date of the Purchaser’s execution of this Declaration unless, at a Bidder’s option, the Bidder pays to the Purchaser an administrative penalty of two percent (2%) of the total bid amount to the Purchaser. The Bid Securing and Performance Declaration will be executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Form or
- (b) if the Bidder does not accept the correction of its Bid Price pursuant to paragraph 17 of these Instructions.
- (c) if the successful Bidder fails within the specified time to sign the Contract:
- (d) if the successful bidder, once contracted commits a fundamental breach of contract leading to the Purchaser’s termination of the contract for reasons of the successful bidder’s default.

**14. Modification and Withdrawal of Bids:** No Bids shall be modified after the deadline for submission of Bids specified above in paragraph 12 of these Instructions. Withdrawal of a Bid between the deadline for submission of Bids and the expiration of the validity of the Bids as specified in paragraph 9 of these Instructions above may result in the execution of the Bid and Performance Securing Declaration.

**15. Opening of Bids:** The Purchaser will open the Bids in the presence of the bidders’ representatives and representatives of the project’s beneficiaries from the local community who choose to attend, at the time, date, and in the place specified in paragraph

12 of these Instructions. The bidders' names, the Bid prices, the total amount of each Bid and any discounts, Bid modifications and withdrawals, the presence or absence of Bid Security or Bid Securing Declaration, and such other details as the Purchaser may consider appropriate, will be read out and recorded at the opening. The minutes shall be signed in original by all those present at the bid opening. Immediately upon conclusion of the bid opening proceedings, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening. In addition, a copy of the minutes shall promptly be posted at a prominent and freely accessible location outside the office of the Purchaser, and also sent to all those who obtained the bidding documents but were not present at the bid opening.

**.16. Process to be Confidential:** All information relating to the examination, clarification, evaluation and comparison of bids for the contract award shall not be disclosed until the award to the successful Bidder has been announced.

**17. Evaluation and Comparison of Bids:** The Purchaser will award the Contract to the Bidder whose Bid has been determined to be substantially responsive and compliant to the technical specification and standards therein and who has offered the lowest evaluated Bid and has been determined to be qualified to perform the Contract satisfactorily. In evaluating the Bids, the Purchaser will determine for each Bid the evaluated Bid Price by making any correction for any arithmetic errors as follows:

- a) where there is a discrepancy between amounts in figures and in words, the amount in words will govern;
- b) where is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern;

If a Bidder refuses to accept the correction, his Bid will be rejected and Bid and Performance Securing Declaration executed.

**18. Purchaser's Right to Accept Any Bids and to Reject any or all Bids:** The Purchaser reserves the right to accept or reject any bid, and to cancel the process of competition and reject all bids, at any time prior to the award of the Contract, without thereby incurring any liability to the affected Bidder(s).

**19. Notification of Award and Signing of Contract:** The Bidder whose Bid has been accepted will be notified of the award by the Purchaser prior to the expiration of the validity period of the Bid, by registered letter. The written notification of award will constitute the formation of the Contract.

**20. Debriefing.** After the award of contract has been announced an unsuccessful Bidder has the right to request a debriefing to ascertain why its bid was unsuccessful and the Purchaser the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection.

**21. Complaints.** A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints

received during the evaluation period will be reviewed by the Purchaser and a response issued only after the evaluation is completed. Complaints shall be addressed to the Project Manager ..... (*insert name, address, tel. and fax Nos. of the Project Manager*). The Project Manager will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint. In the event that the response from the Project Manager does not satisfy the bidder or there is no response to the complaint it should be referred to the Department of Public Procurement, Ministry of Economy and Finance, 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia. In such case, a copy of the complaint should also be sent to the Department of Investment and Cooperation, Ministry of Economy and Finance..... (*insert name, address, tel. and fax Nos. of the designated official of the Department of Investment and Cooperation*) and to the representative of the Funding Agency..... (*insert name, address, tel. and fax Nos. of the designated Task Team Leader for the Project*). The Department of Public Procurement shall respond to the complaint within 14 calendar days. This is without prejudice to any other recourse that a bidder may choose.

**22. Publication of Award.** The Purchaser shall

- (i) notify in writing all participating bidders of the results of the bid evaluation promptly after the contract has been awarded, and
- (ii) publish in a national newspaper, promptly at the end of each quarter, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Purchaser.

## **SECTION 2. CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS**

### **Article 1 General Provisions**

1. The Supplier confirms that he has examined, read and understood fully all the Contract Documents, being
  - i. The Form of Contract,
  - ii. the Conditions of Contract,
  - iii. the Special Conditions of Contract
  - iv. the Technical Specifications
  - v. the Form of Bid submitted by the Supplier,
  - vi. the Price and Delivery Schedule,
  - vii. the Purchaser's Notification of Awardtogether form the Contract
2. The Contract shall be amended only by written agreement between the Purchaser and the Supplier.
3. The law applicable to the Contract shall be that of Cambodia. Every effort shall be made to resolve disputes amicably and without recourse or referral to third parties. Any dispute that cannot be resolved amicably shall be referred by either Party to the Cambodian Chamber of Commerce for adjudication in accordance with the under the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

### **Article 2 Purchaser's and Supplier's obligations**

4. The Purchaser and the Contractor now agree as follows:
  - The Contract Price is..... (*insert US Dollar amount in words and figures*). This amount is for the full delivery of the goods listed in the Price and Delivery Schedule.
  - The Supplier shall supply:  
.....  
(*insert description of the goods*) on or before the delivery date and at the final destination (Project Site), as stipulated in the Price and

Delivery Schedule, and conforming to the standards as stipulated in the Technical Specifications. The Supplier shall be responsible for fully insuring the Goods against loss or damage from “warehouse to warehouse” (final destination) on “All Risk basis”.

5. The Purchaser has the right to reduce the payment to the Supplier by 0.1% of the total price of the Contract for each day of delay beyond the delivery date shown in the Price and Delivery Schedule. The reduction is up to a maximum of 10%, then after the Purchaser may terminate the contract.
  
6. If war or natural disaster makes completion of the contract impossible, the Supplier may ask the Purchaser to release him from the Contract.
  
7. The Supplier guarantees that all goods supplied will be new and unused and carry a warranty of \_\_\_\_ months [*insert required warranty period, between six months and three years depending on the goods being purchased*] starting from the actual delivery date of the goods. Throughout this period the Supplier agrees to make good, at its own expense, any defect that appears during that time due to quality of materials or workmanship.

### **Article 3      Payment Provisions**

8. Payments will be made according to the schedule and terms and conditions set out below:

*[Note: The following is a sample payment schedule, which the Purchaser may retain or reasonably modify, if necessary, to suit the specific requirements of the contract. This note should be deleted from the final contract].*

<b>Steps of Payment</b>	<b>Amount</b>	<b>Payment Conditions</b>
Payment No 1	90% of the Contract Price	Upon receipt of the Goods
Payment No 2	10% of the Contract Price	Upon inspection and acceptance of the goods

9. Processing of payments will be as follows:
  - i. 90% of the Contract Price. The Purchaser will issue a receipt for the goods upon delivery to the Project Site, the Supplier shall submit its commercial invoice with the original receipt attached and three

- copies of both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 days of submission;
- ii. 10% of the Contract Price. . Within 7 days of receiving the goods the Purchaser will undertake any inspections and tests that it deems necessary. Provided that the goods pass any such inspection or tests the Purchaser will issue an acceptance certificate to the Supplier. The Supplier shall submit its commercial invoice with the original acceptance certificate attached and three copies of both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 days of submission.
  - iii. In the event that after the expiry of 7 days after the delivery of the goods, the Purchaser does not provide the Supplier with an acceptance certificate (or issue instructions to repair or replace any defective goods), the Supplier shall submit its invoice in three copies signed as true and correct, for the remaining 10% of the value of the goods delivered and the Purchaser will effect payment within 30 days of submission.
10. Payment shall be made in US Dollars and Cambodian Riels in the proportion specified below. .The portion of the payment in Cambodian Riels shall be made using the exchange rate for selling published by the Central Bank of Cambodia on the date of payment.
- In US Dollars.....% [for externally financed contracts, insert the applicable percentage of reimbursement by the funding agency as specified in the loan/credit/grant agreement]*
- In Cambodian Riels:..... % [For externally financed contracts, insert the balance percentage representing the government counterpart contribution].*
11. If any payment is delayed for more than 1 calendar month after the due date for Payment, the Purchaser will pay interest to the Supplier at the rate of 2% of the amount of the payment for the first month and for each subsequent full calendar month during which payments are delayed.
12. If the Contract is cancelled because of the fault of the Supplier, the Purchaser has the right to obtain the goods from another source. The Supplier shall be liable for any purchase costs paid in excess of this Contract's value.

#### **Article 4      Fraud and Corruption**

13. The Funding Agency requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and

consultants observe the highest standard of ethics during the procurement and execution of contracts.. In pursuance of this policy, both the Government of Cambodia (GoC) and the Funding Agency:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
- (i) *“corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and*
  - (ii) *“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Borrower, and includes collusive practice among Bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the GoC of the benefits of free and open competition;*
  - (iii) *“collusive practices” means a scheme or arrangement between two or more bidders, designed to establish bid prices at artificial, non-competitive levels or to influence the action of any party in the procurement process or the execution of a contract;*
  - (iv) *“coercive practices” means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.;*
- (b) will respectively declare a firm or individual ineligible, either indefinitely or for a stated period of time, to be awarded a contract funded by the GoC and the Funding Agency if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for, or in executing, any contract.
- (c) will have the right to inspect and audit the records of the Supplier relating to the bidding process or the resulting award and execution of this contract. The inspection and audit may, at the discretion of the GoC or the Funding Agency be undertaken by independent auditors appointed by them.
14. The Funding Agency will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Funding Agency to remedy the situation

**Article 5 Special Conditions**

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In witness of what has been agreed above, the signatures of the authorized representatives of the two Parties are affixed below on the date shown.

<b>◆ Purchaser</b>		<b>◆ Supplier</b>	
Name	: -----	Name	: -----
Position	: -----	Position	: -----
Date	: -----	Date	: -----

### SECTION 3. PRICE AND DELIVERY SCHEDULE

Item N°	Description of Goods	Quantity	Physical unit	Delivery Final Destination (Project Site)	Delivery Date	Unit price per item delivered at Final Destination (Project Site) <sup>1</sup>	Total price per item delivered at Final Destination (Project Site) <sup>1</sup>
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>[to be filled by bidder]</i>	<i>[to be filled by bidder]</i>

Total Bid Price

In Words.....

Authorized Signature of Bidder.....

1. Currency to be used is US Dollars. The price shall include all customs duties and sales and other taxes already paid or payable, transportation, insurances, and any other local charges for delivery of the goods up to final destination.

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

## SECTION 4. TECHNICAL SPECIFICATIONS AND DRAWINGS

*A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Purchaser without qualifying or conditioning their bids. These should be included here. The Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. The Specifications should require that all goods and materials be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.*

Item	Specification	<p><b>Statement of Compliance</b> Bidders must state here either “Comply” or “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” of must be supported by evidence in a bidders bid and cross-referenced to that evidence.</p> <p>A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the bid under evaluation liable for rejection. A statement either in the bidders statement of compliance or the supporting evidence that is found to be false either during evaluation or the execution of the contract may be regarded as fraudulent and render the bidder or supplier liable for prosecution.</p>

**SECTION 5. 1. FORM OF BID**

\_\_\_\_\_ (Date)

To: \_\_\_\_\_ (Purchaser's Name)

\_\_\_\_\_ (Purchaser's Address)

\_\_\_\_\_

We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified therein, the following Goods [*insert a brief description of the Goods*]. The total price of our Bid, including any discounts offered, is [*insert US Dollar amount in words and figures*].

This Bid and your written acceptance will constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid will remain valid for 60 days after then Deadline for Submission of Bids.

We note and accept without reservation the Government's and the Funding Agency's (when other than the Government) right to audit and inspect any and all records relating both to the preparation of our Bid, and if our Bid is successful, the execution of the resulting contract.

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

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

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number, if any \_\_\_\_\_

The **Bidder** shall fill in and submit this form with the Bid.

**2. Statement on Ethical Conduct and Fraud and Corruption**

We the undersigned confirm in the preparation of our bid that:

1. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
2. Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
3. That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
4. We understand our obligation to allow the Government or the funding agency be the Asian Development Bank or World Bank to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
5. That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.

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

Name of Bidder: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number \_\_\_\_\_

Fax Number, if any \_\_\_\_\_

## SECTION 6. FORM OF CONTRACT AGREEMENT

### AGREEMENT

This Agreement, made the \_\_\_\_\_ day of \_\_\_\_\_ 200\_, by and between

---

*[insert name and address of Purchaser]* (hereinafter called “the Purchaser”) and

---

*[insert name and address of Supplier]* (hereinafter called “the Supplier”).

**Whereas** the Purchaser invited bids for certain Goods viz., *[insert brief description of Goods]* and has accepted a Bid by the Supplier for the supply of those Goods in the sum of *[insert Contract Price in words and figures, expressed in United States Dollars]* (hereinafter called “the Contract Price”).

#### **Now this Agreement witnessed as follows:**

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:
  - (a) The Form of Contract,
  - (b) the Conditions of Contract,
  - (c) the Special Conditions of Contract
  - (d) the Technical Specifications
  - (e) the Form of Bid submitted by the Supplier,
  - (f) the Price and Delivery Schedule,
  - (g) the Purchaser’s Notification of Award
3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Contractor hereby covenants with the Purchaser to execute and complete the Contract in conformity in all respects with the provisions of the Contract.

- 
5. The Purchaser hereby covenants to pay the Supplier in consideration of the execution and completion of the Contract 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 thereto have caused this Agreement to be executed the days and year first before written

The Common Seal of

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was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the  
said

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in the presence of :

Binding Signature of Purchaser: \_\_\_\_\_

Binding Signature of Supplier: \_\_\_\_\_

## **SECTION 7. BID AND PERFORMANCE SECURING DECLARATION**

*[The Bidder shall fill in this form in accordance with the instructions indicated in brackets and submit it with the Bid.]*

Date: *[insert date]*

Name of contract: *[insert name]*

Contract Identification N°: *[insert number]*

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

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

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a bid and performance securing declaration.
2. We accept that we shall be suspended from being eligible for bidding in any contract with the Purchaser and the Government of Cambodia for the period of time of two years starting on the date of the Purchaser's execution of this Declaration or pay 2% of the contract price as a penalty, if we are in breach of our obligation(s) under the bid conditions and contract conditions, because we:
  - a) have withdrawn our Bid during the period of bid validity specified by us in the Bid Submission Sheet; or
  - b) do not accept the correction of errors in accordance with the Instructions to Bidders of the Bidding Documents, or
  - c) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, fail or refuse to execute the Contract Form, if required, or
  - d) committed a fundamental breach of contract leading to the Purchaser's termination of the contract for reasons of our default.
3. We understand this bid securing declaration shall expire if we are not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification that we were unsuccessful; or (ii) 30 (thirty) days after the expiration of our bid, or in the event that our bid is successful and we are awarded a contract we understand that this bid and performance securing declaration will expire upon successful completion of the warranty period specified in paragraph 7 of the Conditions of Contract.
4. We understand that if we are a JV, the Bid and Performance Securing Declaration must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed *[insert signature(s) of authorized representative]* In the Capacity of *[insert title]*

**National Standard Bidding Documents, Procurement of Goods**

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Name *[insert printed or typed name]*

Duly authorized to sign the bid for and on behalf of *[insert authorizing entity]*

Dated on *[insert day]* day of *[insert month]*, *[insert year]*

Developed with the assistance of:



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