

**GOVERNMENT OF NEPAL
MINISTRY OF PHYSICAL PLANNING, WORKS AND TRANSPORT
MANAGEMENT
DEPARTMENT OF ROADS**

BIDDING DOCUMENT

for

**PROCUREMENT OF
Supply and Delivery of Equipment and Spare Parts:
“Hydraulic Excavator with Breaker”**

**International Competitive Bidding (ICB)
IFB No.: RD/MB/EP/69-70/3**

Issued on:

Bid Document issued to:

TENDER SUBMITTED BY:

(ON BEHALF OF) :.....

Financing Agency:

Government Budget: Budget Head No.: 337162/4

Abbreviations

BDS.....	Bid Data Sheet
BD	Bidding Document
DCS.....	Delivery and Completion Schedule
DP	Development Partner
EQC	Evaluation and Qualification Criteria
GCC	General Conditions of Contract
GoN	Government of Nepal
ICC.....	International Chamber of Commerce
IFB	Invitation for Bids
Incoterms.....	International Commercial Terms
ITB	Instructions to Bidders
LGRS	List of Goods and Related Services
PAN	Permanent Account Number
PPMO	Public Procurement Monitoring Office
SBD.....	Standard Bidding Document
SBQ.....	Schedule of Bidder Qualifications
SCC.....	..Special Conditions of Contract
SS	Schedule of Supply
TS.....	Technical Specifications
UNCITRAL	United Nations Commission on International Trade Law
VAT	Value Added Tax

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Invitation for Bids

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Invitation for Bids

Government of Nepal

Ministry of Physical Planning, Works and Transport Management

Department of Roads, Babarmahal, Kathmandu

Invitation for Bids for Procurement of Supply and Delivery of Equipment and Spare Parts

Contract Identification No: **RD/MB/EP/69-70/3**

Date of publication: 2nd January, 2013; Name of the Project: **Equipment Procurement**

1. The **Department of Roads, Mechanical Branch** invites sealed bids from eligible bidders for the procurement of following Equipment and its Spare Parts **under International Competitive Bidding (ICB) procedures.**

Items	Quantity	Minimum Bid Security Amount
Hydraulic Excavator with Breaker (20 Ton Class)	1 unit	NRs.3,50,000.00

2. Eligible Bidders may obtain further information and inspect the bidding documents at the office of **Department of Roads Mechanical Branch, Babarmahal, Kathmandu, Tel: 4262693 Ext: 2120, 2124; Fax: +977-1-4262510.**
3. Bidding documents may be purchased on or before 14 February, 2013 from **Department of Roads Mechanical Branch, Babarmahal, Kathmandu** by eligible Bidders on the submission of a written application accompanied by a letter of Authority from the Principal / Manufacturer to the address above, along with the copy of company/firm registration certificate, and upon payment of a non-refundable fee of **NRs. 3000/-** in cash for a set of bidding document (two copies) or in form of bank receipt for fee deposited in in the Revenue (Rajaswa) account as specified below or equivalent amount in US\$ in the form of bank draft in favor of the **Department of Roads, Mechanical Branch, Babar Mahal.**

Information to deposit the cost of Bidding Document in Bank:

Name of the Bank: **Nepal Rastra Bank, Thapathali, Kathmandu, Nepal**

Name of Office: **Department of Roads, Mechanical Branch, Babar Mahal**

Office Code no. : 27-337-05

Office Account no. : Ka-1-1-132

Revenue (Rajaswa) Head no.: **14227**

4. Sealed Bids must be submitted to **Department of Roads Mechanical Branch, Babarmahal, Kathmandu** on or before **12:00 hours on 15 February, 2013.** Documents received after this deadline shall not be accepted.
5. Bids shall be opened in the presence of Bidders' representatives, who choose to attend at the address above **at 13:00 Hours on 15 February, 2013.** Bids must be valid for a period of 90 days counting from the day of bid opening and must be accompanied by bid security, amounting to NRs.3,50,000.00 (or equivalent in freely convertible currency) which shall be **valid for minimum 30 days** beyond the bid validity period [*i.e. 15 June 2013*].
6. If the last date of purchasing, submission and opening falls on a government holiday then the next working day shall be considered the last day. In such a case the bid validity and bid security validity shall be recognized with effect from the original bid submission deadline.
7. Bids should comply in all respects with the Instruction to Bidder included in the Bid Document. Non compliance with this instruction shall result in disqualification.
8. The purchaser reserves the right to accept or reject, wholly or partly any or all the bids without assigning reason, whatsoever.

Section I. Instructions to Bidders

Section I. Instructions to Bidders

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Section I. Instructions to Bidders

A. General

1. **Scope of Bid**
 - 1.1 The Purchaser **indicated in the BDS** issues this Bidding Document for the supply of Goods and Related Services incidental thereto as specified in Section V, Schedule of Supply. The name, identification, and number of lots of the International Competitive Bidding (ICB) are provided in the **BDS**.
 - 1.2 Throughout this Bidding Document :
 - (a) the term “in writing” means communicated in written form with proof of receipt;
 - (b) if the context so requires, singular means plural and vice versa; and
 - (c) “day” means calendar day.
2. **Source of Funds**
 - 2.1 DP Funded: The GoN has applied for or received financing (hereinafter called “funds”) from the Development Partner (hereinafter called “the DP”) **indicated in the BDS** toward the cost of the project **named in the BDS**. The GoN intends to apply a portion of the funds to eligible payments under the contract(s) for which this Bidding Document is issued.

Or

GoN Funded: In accordance with its annual program and budget, approved by the GoN, the implementing agency **indicated in the BDS** plans to apply a portion of the allocated budget to eligible payments under the contract(s) for which this Bidding Document is issued.
 - 2.2 DP Funded: Payment by the DP will be made only at the request of the GoN and upon approval by the DP in accordance with the terms and conditions of the financing agreement between the GoN and the DP (hereinafter called the “Loan Agreement”), and will be subject in all respects to the terms and conditions of that Loan Agreement. No party other than the GoN shall derive any rights from the Loan Agreement or have any claim to the funds.
3. **Fraud and**
 - 3.1 The Government of Nepal (GoN) requires that the procuring

Corruption

entities as well as bidders, suppliers, and contractors and their sub-contractors under GoN/DP-financed contracts, shall adhere to the highest standard of ethics during the procurement and execution of such contracts. In this context , the Purchaser;

(a) defines, for the purposes of this provision, the terms set forth below as follows:

- (i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, anything of value to influence improperly the actions of another party;
- (ii) “fraudulent practice” means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
- (iii) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (iv) “collusive practice” means an arrangement between two or more parties designed to achieve an improper purpose, including influencing improperly the actions of another party.
- (v) “obstructive practice” means:
 - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a GoN/DP investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
 - (bb) acts intended to materially impede the exercise of the GoN’s/DP’s inspection and audit rights provided for under sub-clause 3.5 below.
 - (cc) will reject bid(s) if it determines that the bidder has, directly or through an agent, engaged in

Section I. Instructions to Bidders

corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

(dd) will sanction a firm or individual, including declaring ineligible, for a stated period of time, to be awarded a GoN/DP-financed contract if it at any time determines that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for, or in executing, a GoN/DP-financed contract.

3.2 The Bidder shall not carry out or cause to carry out the following acts with an intention to influence the implementation of the procurement process or the procurement agreement :

- (a) give or propose improper inducement directly or indirectly,
- (b) distortion or misrepresentation of facts,
- (c) engaging in corrupt or fraudulent practice or involving in such act,
- (d) interference in participation of other competing bidders,
- (e) coercion or threatening directly or indirectly to cause harm to the person or the property of any person to be involved in the procurement proceedings,
- (f) collusive practice among bidders before or after submission of bids for distribution of works among bidders or fixing artificial/uncompetitive bid price with an intention to deprive the Employer the benefit of open competitive bid price,
- (g) contacting the Employer with an intention to influence the Employer with regards to the bids or interference of any kind in examination and evaluation of the bids during the period from the time of opening of the bids until the notification of award of contract.

3.3 PPMO on the recommendation of the Purchaser may **blacklist** a Bidder for a period of one (1) to three (3) years for its conduct including the following grounds and seriousness of the act committed by the bidder:

- (a) if convicted by a court of law in a criminal offence which

Section I. Instructions to Bidders

disqualifies the Bidder from participating in the contract,

- (b) if it is established that the contract agreement signed by the Bidder was based on false or misrepresentation of Bidder's qualification information,

3.4 A bidder declared blacklisted and ineligible by the GoN, Public procurement Monitoring Office (PPMO) and/or the DP in case of DP funded project, shall be ineligible to bid for a contract during the period of time determined by the GoN, PPMO and/or the DP.

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

3.6 DP Funded: In pursuance of the fraud and corruption policy, the DP.

- (a) will reject a proposal if it determines that the bidder recommended for award has directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

- (b) will cancel the portion of the loan/ credit/ grant allocated to a contract if it determines at any time that representative(s) of the GoN or of a beneficiary of the fund engaged in corrupt, fraudulent, collusive, or coercive practices during the procurement or the execution of that contract, without the GoN having taken timely and appropriate action satisfactory to the DP to address such practices when they occur.

4. Eligible Bidders

4.1 A Bidder may be a natural person, private entity, government-owned entity (subject to ITB 4.4) or any combination of them with a formal intent to enter into an agreement or under an existing agreement in the form of a Joint Venture (JV). In the case of a JV:

- (a) all parties to the JV shall be jointly and severally liable; and
- (b) a JV shall nominate a Representative who shall have the authority to conduct all businesses for and on behalf of any and all the parties of the JV during the bidding process and, in the event the JV is awarded the Contract, during

Section I. Instructions to Bidders

contract execution.

- 4.2 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to be in a conflict of interest with one or more parties in this bidding process if, including but not limited to:
- (a) have controlling shareholders in common; or
 - (b) receive or have received any direct or indirect subsidy from any of them; or
 - (c) have the same legal representative for purposes of this Bid; or
 - (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder, or influence the decisions of the Purchaser regarding this bidding process; or
 - (e) a Bidder participates in more than one bid in this bidding process. Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which it is involved. However, this does not limit the inclusion of the same subcontractor, not otherwise participating as a Bidder, in more than one bid; or
 - (f) a Bidder or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the goods and services that are the subject of the bid.
- 4.3 A Bidder that is under a declaration of ineligibility by the GoN/DP in accordance with ITB 3, at the date of the deadline for bid submission or thereafter, shall be disqualified. The list of debarred firms is available at the electronic address specified in the BDS.
- 4.4 Government-owned enterprises in Nepal shall be eligible only if they can establish that they (i) are legally and financially autonomous, (ii) operate under the principles of commercial law, and (iii) are not dependent agencies of the Purchaser.
- 4.5 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 4.6 Firms shall be excluded in any of the cases, if

- (a) 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 Purchaser's country prohibits any import of goods or Contracting of works or services from that country or any payments to persons or entities in that country.
 - (b) DP Funded: as a matter of law or official regulation, Nepal prohibits commercial relations with that country, provided that the DP is satisfied that such exclusion does not preclude effective competition for the supply of goods or related services required;
 - (c) DP Funded: a firm has been determined to be ineligible by the DP in relation to their guidelines or appropriate provisions on preventing and combating fraud and corruption in projects financed by them.
- 4.7 **DP Funded:** A bidder and all parties constituting the Bidder shall have the nationality of an eligible country as defined by the concerned DP.
- 4.8 Domestic Bidders shall be eligible only if the bidder has obtained Permanent Account Number (PAN), Value Added Tax (VAT) registration certificate(s) and Tax clearance certificate or proof of submission of income return **as stated in BDS** from the Inland Revenue office. Foreign Bidders shall be eligible only if the bidder submits the documents indicated in the BDS at the time of bid submission and a declaration to submit the document(s) indicated in the BDS at the time of contract agreement.
- 5. Eligible Goods and Related Services**
- 5.1 **DP Funded:** If so required in the **BDS**, all goods and related services to be supplied under the contract and financed by DP, shall have as their country of origin an eligible country of the DP.
- 5.1 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.
- 5.2 The origin of goods and services is distinct from the nationality of the Bidder.
- 6. Site Visit**
- 6.1 For goods contracts requiring installation/ commissioning networking or similar services at site, the Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site and obtain all information that may be necessary for

preparing the Bid and entering into a contract for the supply of goods and related services.

- 6.2 The Bidder should ensure that the Purchaser is informed of the visit in adequate time to allow it to make appropriate arrangements.
- 6.3 The costs of visiting the Site shall be at the Bidder's own expense.

B. Contents of Bidding Document

7. Sections of the Bidding Document

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

PART 1 Bidding Procedures

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

PART 2 Supply Requirements

- Section V. Schedule of Supply

PART 3 Conditions of Contract and Contract Forms

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

- 7.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Document.
- 7.3 The Purchaser is not responsible for the completeness of the Bidding Document and its addenda, if they were not obtained directly from the Purchaser.
- 7.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish

all information or documentation required by the Bidding Document may result in the rejection of the Bid.

- 8. Clarification of Bidding Document/Pre-Bid Meeting**
- 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 within the time limit specified in the **BDS** prior to the deadline for submission of Bids. The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB **9** and **24.2**.
- 8.2 The purchaser may organize a pre-bid meeting of Bidders at least fifteen (15) days before the deadline for submission of Bids at the place, date and time as specified in the **BDS** to provide information relating to Bidding Documents, Technical specifications and the like matters. 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 **9** and ITB **24.2**.
- 9. Amendment of 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 **24.2**

C. Preparation of Bids

- 10. Cost of Bidding**
- 10.1 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.
- 11. Language of**
- The Bid, as well as all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be written in the

Bid language **specified in the BDS**. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language **specified in the BDS**, in which case, for purposes of interpretation of the Bid, such translation shall govern.

**12. Documents
Comprising
the Bid**

- 12.1 The Bid shall comprise the following:
- (a) Bid Submission Sheet and the applicable Price Schedules, in accordance with ITB Clauses **13, 15, and 16**;
 - (b) Bid Security, in accordance with ITB **21**;
 - (c) alternative bids, if permissible, in accordance with ITB **14**;
 - (d) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB **22**;
 - (e) **documentary** evidence in accordance with ITB **17** establishing the Bidder's eligibility to bid;
 - (f) documentary evidence in accordance with ITB Clauses **18** and **31**, that the Goods and Related Services conform to the Bidding Document;
 - (g) documentary evidence in accordance with ITB **19** establishing the Bidder's qualifications to perform the contract if its Bid is accepted; and
 - (h) any other document **required in the BDS**.

**13. Bid
Submission
Sheet and
Price
Schedules**

- 13.1 The Bidder shall submit the Bid Submission Sheet using the form furnished in **Section IV, Bidding Forms**. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested.
- 13.2 The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in **Section IV, Bidding Forms**.

**14. Alternative
Bids**

- 14.1 Unless otherwise **indicated in the BDS**, alternative bids shall not be considered.

**15. Bid Prices and
Discounts**

- 15.1 The prices and discounts quoted by the Bidder in the Bid Submission Sheet and in the Price Schedules shall conform to the requirements specified below.
- 15.2 All items in the Schedule of Supply must be listed and priced separately in the Price Schedules. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be

included in the prices of other items. Items not listed in the Price Schedule shall be assumed not to be included in the Bid, and provided that the Bid is substantially responsive, the corresponding adjustment shall be applied in accordance with **ITB 32.3**

- 15.3 The price to be quoted in the Bid Submission Sheet shall be the total price of the Bid excluding any discounts offered.
- 15.4 The Bidder shall quote any unconditional discounts and the methodology for their application in the Bid Submission Sheet.
- 15.5 The terms EXW, CIF, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, at the date of the Invitation for Bids or **as specified in the BDS.**
- 15.6 Prices shall be quoted as specified in each Price Schedule included in **Section IV, Bidding Forms.** The disaggregation of price components is required solely for the purpose of facilitating the comparison of Bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered. Prices shall be entered in the following manner:
- (a) For Goods manufactured in Nepal :
- (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties, Value Added Tax and other taxes already paid or payable on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory, or on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf;
 - (ii) Value Added Tax and all other taxes applicable in Nepal and payable on the Goods if the Contract is awarded to the Bidder; and
 - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) specified in the **BDS.**
- (b) For Goods manufactured outside Nepal, to be imported:
- i. the price of the goods quoted CIF (named port of

Section I. Instructions to Bidders

destination), or CIP(border point),or CIP(named place of destination), named place of destination as specified in the BDS;

- ii. the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the **BDS**;
- iii. in addition to the CIP prices specified in (b)(i) above, the price of the Goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so specified in the **BDS**;

(c) For Goods manufactured outside Nepal, already imported:

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

- (i) the price of the Goods, including the original import value of the Goods; plus any mark-up (or rebate); plus any other related local cost, and custom duties and other import taxes already paid or to be paid on the Goods already imported.
- (ii) the custom duties and other import taxes already paid (need to be supported with documentary evidence) or to be paid on the Goods already imported;
- (iii) the price of the Goods, obtained as the difference between (i) and (ii) above;
- (iv) any sales and other taxes which will be payable on the Goods if the contract is awarded to the Bidder; and
- (v) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final

destination (Project Site) specified in the **BDS**.

(d) For Related Services, other than inland transportation and other services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:

(i) the local currency cost component of each item comprising the Related Services; and

(ii) the foreign currency cost component of each item comprising the Related Services,

inclusive of all custom duties, Value Added Tax and other taxes applicable in the Purchaser's country, payable on the related services, if the contract is awarded to the Bidder.:

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

If so indicated pursuant to ITB 1.1, Bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the **BDS**, prices quoted shall correspond to 100% of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction for the award of more than one Contract shall specify the applicable price reductions in accordance with ITB **15.4**, provided the bids for all lots are submitted and opened at the same time.

16. Currencies of Bid

16.1 Bid prices shall be quoted in the following currencies:

(a) Bidders may express their bid price in any fully convertible currency. If a Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three currencies in addition to the Nepalese currency.

- (b) All expenditures that are to be incurred in Nepal for i) inland transportation and related costs, ii) all taxes, and iii) local currency cost component of related services other than inland transportation and other services should be expressed in the Bid in Nepalese currency and will be payable in Nepalese currency.

17. Documents Establishing the Eligibility of the Bidder

- 17.1 To establish their eligibility in accordance with ITB 4, Bidders shall:
 - (a) complete the eligibility declarations in the Bid Submission Sheet, included in **Section IV, Bidding Forms**; and
 - (b) if the Bidder is an existing or intended JV in accordance with **ITB 4.1** , submit a copy of the JV Agreement, or a letter of intent to enter into such an Agreement. The respective document shall be signed by all legally authorized signatories of all the parties to the existing or intended JV, as appropriate.

17.2 Bidders, applying for eligibility for domestic preference as indicated in ITB 35 shall submit the certification of country of origin issued by authorized agency to satisfy the offered goods are produced in Nepal as described in section III, Evaluation and Qualification Criteria.

18. Documents Establishing the Conformity of the Goods and Related Services to the Bidding Document

- 18.1 To establish the conformity of the Goods and Related Services to the Bidding Document, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods and Related Services conform to the requirements specified in **Section V, Schedule of Supply**.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item-by-item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to those requirements, and if applicable, a statement of deviations and exceptions to the provisions of **Section V, Schedule of Supply**.
- 18.3 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the

Purchaser.

- 18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Section V, Schedule of Supply, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in **Section V, Schedule of Supply**.
- 19. Documents Establishing the Qualifications of the Bidder**
- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its bid is accepted, shall establish to the Purchaser's satisfaction that the Bidder meets each of the qualification criterion specified in **Section III, Evaluation and Qualification Criteria**.
- 19.2 If so required in the **BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in **Section IV, Bidding Forms** to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Nepal and take care of the warranty provided.
- 19.3 If so **required in the BDS**, a Bidder that does not conduct business within Nepal shall submit evidence that it will be represented by an Agent in the country equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications.
- 19.4 A foreign Bidder wishing to have or already having a local agent shall state the following:
- a. Name and address of the Agent/Representative,
 - b. The Agent/Representative providing type of services,
 - c. Amount of commission if the Agent/Representative is entitled to get such payment and if it participates in the procedure of payment,
 - d. Other agreement with Agent/Representative, if any,
 - e. Bidder shall certify in the Letter of Authorization as follows:
"We certify that the statement and disclosure made by us on the above

are complete and true to the best of our knowledge and belief",

If the agent has not been appointed:

- f. Source of information about tender invitation,
- g. The remuneration given to the individual or firm/company or organization to work on its behalf for submitting tender, representation in the bid opening and other required action in connection with the tender,
- h. Transfer or handover an evidence of foreign currency exchanged which required to be submitted with the tender,
- i. If the bank account of any Nepali citizen has been used for the exchange of foreign currency specify the name of the individual and his address. If the foreign currency has been exchanged by self then the certificate of currency exchange.

19.5 If a foreign Bidder in its Bid, has not provided the information mentioned in ITB 19.4 or has submitted its bid stating that the Bidder does not have a local agent and later it is proved that the bidder has a local agent or it is proved that the commission mentioned in the Bid is less than the commission received by the local agent then the Purchaser shall initiate proceedings to blacklist such bidder in accordance with ITB 3.3.

20. Period of Validity of Bids

20.1 Bid shall remain valid for a period **specified in the BDS** after the bid submission deadline date prescribed by the purchaser. A bid valid for a shorter period shall be rejected by the purchaser as nonresponsive.

20.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB 21, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.

21. Bid Security

21.1 Unless otherwise *specified in the BDS*, the Bidder shall furnish as part of its bid, in original form, a Bid Security *as specified in the BDS*.

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

- (a) **original copy of an unconditional bank guarantee from reputed commercial foreign bank or;**
- (b) **original copy of an unconditional bank guarantee from "A" class commercial bank in Nepal or;**
- (c) **original copy of cash** deposit voucher in the Purchaser's Account as *specified in BDS*.

In case of a bank guarantee, the Bid Security shall be submitted using the Bid Security Form included in *Section IV, Bidding Forms*. The form must include the complete name of the Bidder. The Bid Security shall be valid for minimum thirty (30) days beyond the end of the validity period of the bid. This shall also apply if the period for bid validity is extended.

A bid security issued by foreign bank must be counter – guaranteed by an "A" class commercial bank in Nepal acceptable to the Purchaser.

- 21.3 If a bid Security is required in accordance with ITB **21.1**, any Bid not accompanied by an enforceable and compliant Bid Security in accordance with ITB **21.2**, shall be rejected by the Purchaser as nonresponsive.
- 21.4 If a Bid Security is specified pursuant to ITB **21.1**, the Bid Security of unsuccessful Bidders shall be returned within three (3) days upon the successful Bidder furnishing of the signed Contract Agreement and the Performance Security pursuant to ITB **43**.
- 21.5 If a Bid Security is specified pursuant to ITB **21.1**, the Bid Security of the successful Bidder shall be returned as promptly as possible once the successful Bidder has signed the Contract Agreement and furnished the required Performance Security.
- 21.6 The Bid Security may be forfeited:
 - (a) if a Bidder withdraws its Bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB **20.2**; or
 - (b) if the successful Bidder fails to:
 - (i) sign the Contract in accordance with ITB **44**; or

- (ii) furnish a Performance Security in accordance with ITB 43.

21.7 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in ITB 17.1.

22. Format and Signing of Bid

22.1 The Bidder shall prepare one original of the documents comprising the Bid as described in ITB 12 and clearly mark it "ORIGINAL." In addition, the Bidder shall submit copies of the Bid, in the number *specified in the BDS* and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

22.2 The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder. This authorization shall be attached with the Bid.

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

D. Submission and Opening of Bids

23. Submission, Sealing and Marking of Bids

23.1 Bidders may always submit their bids by mail or by hand or by courier. When so *specified in the BDS*, Bidders have the option of submitting their bids electronically. Bidders submitting bids electronically shall follow the electronic bid submission procedures *specified in the BDS*.

23.2 Bidders submitting bids by mail or by hand or by courier shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB 14, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL", "ALTERNATIVE" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in accordance with ITB 23.3 and 23.4.

23.3 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB

- 24.1;**
- (c) bear the specific identification of this bidding process pursuant to ITB 1.1 and any additional identification marks as specified in the **BDS**; and
 - (d) bear a warning "NOT TO OPEN BEFORE THE TIME AND DATE FOR BID OPENING", in accordance with ITB **27.1**.
- 23.4 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the bid.
- 24. Deadline for Submission of Bids**
- 24.1 Bids must be received by the Purchaser at the address and no later than the date and time *indicated in the BDS*.
- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of Bids by amending the Bidding Document in accordance with ITB 9, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.
- 25. Late Bids**
- 25.1 The Purchaser shall not consider any Bid that arrives after the deadline for submission of Bids, in accordance with ITB **24**. Any Bid received by the Purchaser after the deadline for submission of Bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal and Modification of Bids**
- 26.1 A Bidder may withdraw or modify its Bid after it has been submitted by sending a written Notice in a sealed envelope, duly signed by an authorized representative, and shall include a copy of the authorization in accordance with ITB **22.2** (except that Withdrawal Notices do not require copies). The corresponding withdrawal or modification of the Bid must accompany the respective written Notice. All Notices must be:
- (a) submitted in accordance with ITB Clauses **22** and **23** (except that Withdrawal Notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Withdrawal", or "Modification"; and
 - (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB **24**.
- 26.2 Bids requested to be withdrawn in accordance with ITB **26.1** shall be returned unopened to the Bidders.
- 26.3 No Bid shall be withdrawn or modified in the interval between

the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Sheet or any extension thereof.

26.4 Sealed envelope pursuant to ITB **26.1** shall be opened only on the date and time of opening of bid.

27. Bid Opening

27.1 The Purchaser shall conduct the bid opening in public in the presence of bidder or its representative who chose to attend at the address, date and time specified in the **BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB **23.1**, shall be as specified in the **BDS**.

27.2 Before opening the bids the purchaser shall separate the envelopes of the bids received after the deadline of bid submission, the envelopes containing an application given for “WITHDRAWAL”,or “MODIFICATION” of bids and the envelopes of bids duly registered. The bids received after the deadline of submission shall be returned to the concerned bidder unopened. Then envelopes marked “WITHDRAWAL” shall be opened first, read out, and recorded, and the envelope containing the corresponding Bid shall not be opened, but returned to the Bidder. If the withdrawal notice is not accompanied by a copy of the valid authorization pursuant to ITB **22.2**, the withdrawal shall not be permitted and the corresponding Bid will be opened. Next Envelopes marked “MODIFICATION” shall be opened, read out, and recorded with the corresponding Bid. No Bid shall be modified unless the corresponding “Modification” Notice contains a valid authorization to request the modification and is read out and recorded at bid opening. Only envelopes that are opened, read out, and recorded at bid opening shall be considered further.

27.3 All other envelopes shall be opened one at a time, and the following read out and recorded: the name of the Bidder and whether there is a modification; the Bid Prices (per lot if applicable), any discounts and alternative offers; the presence of a Bid Security, if required; if there is discrepancy between figure and words, description of such discrepancy; whether the bid form is signed by the bidder or his agent; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out and recorded at bid opening shall be considered for evaluation. No Bid shall be rejected at bid opening except for late bids, in accordance with ITB **25.1**.

27.4 The Purchaser shall prepare a record of the bid opening that

shall include, as a minimum: the name of the Bidder and whether there is a withdrawal or modification; the Bid Price, per lot if applicable, any discounts and alternative offers if they were permitted; and the presence or absence of a Bid Security. The Bidders' representatives who are present shall be requested to sign the record. The omission of a Bidder's signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all Bidders who submitted bids in time, and posted on line when electronic bidding is permitted. The Bidders' representatives who are present shall also be requested to sign an attendance sheet.

E. Evaluation and Comparison of Bids

- 28. Confidentiality** 28.1 Information relating to the examination, evaluation, comparison, and post-qualification of Bids, and recommendation of contract award, shall not be disclosed to Bidders or any other persons not officially concerned with such process until publication of the Contract award; thereafter, information will be disclosed in accordance with ITB **44. 2**.
- 28.2 Any attempt by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and post-qualification of the Bids or Contract award decisions may result in the rejection of its Bid.
- 28.3 Notwithstanding ITB **28.2**, from the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.
- 29. Clarification of Bids** 29.1 To assist in the examination, evaluation, comparison and post-qualification of the Bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder with regard to its Bid and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Bids, in accordance with ITB **33**.
- 30. Deviations, Reservations, and Omissions** 30.1 During the evaluation of bids, the following definitions apply:
- (a) "Deviation" is a departure from the requirements specified in the Bidding Document;

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(b) “Reservation” is the setting of limiting conditions or withholding from complete acceptance of the requirements specified in the Bidding Document; and

(c) “Omission” is the failure to submit part or all of the information or documentation required in the Bidding Document.

31. Determination of Responsiveness

31.1 The Purchaser’s determination of the responsiveness of a Bid is to be based on the contents of the Bid itself, as defined in ITB 12.

31.2 A substantially responsive bid is one that meets the requirements of the Bidding Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that,

(a) if accepted, would:

(i) affect in any substantial way the scope, quality, or performance of the Goods and Related Services specified in **Section V, Schedule of Supply**; or

(ii) limits in any substantial way, inconsistent with the Bidding Document, the Purchaser’s rights or the Bidder’s obligations under the proposed Contract; or

(b) if rectified, would unfairly affect the competitive position of other Bidders presenting substantially responsive bids.

31.3 The Purchaser shall examine the technical aspects of the bid in particular, to confirm that all requirements of **Section V, Schedule of Supply** have been met without any material deviation or reservation.

32. Non-material Non-conformities

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

32.2 Provided that a Bid is substantially responsive, the Purchaser may request that the Bidder submit the necessary information or documentation, within a reasonable period of time, to rectify non-material non-conformities or omissions in the Bid related to documentation requirements. Requesting information or documentation on such nonconformities shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.

- 32.3 Provided that a Bid is substantially responsive, the Purchaser shall rectify non-material nonconformities or omissions. To this effect, the Bid Price shall be adjusted, for comparison purposes only, to reflect the price of the missing or non-conforming item or component. The adjustment shall be made using the method indicated in **Section III, Evaluation and Qualification Criteria**.
- 32.4 If minor differences are found such as in technical specification, description, feature which do not make the bid to be rejected, then the cost, which is calculated to the extent possible due to such differences, shall be included while evaluating bid.
- 32.5 If the value is found fifteen percent more than the quoted amount of the bidder on account of minor differences pursuant to ITB 32.4, such bid shall be considered ineffective in substance and shall not be considered for evaluation.
- 33. Correction of Arithmetical Errors**
- 33.1 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;
 - (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
 - (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.
- 33.2 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected and its bid security shall be forfeited..
- 34. Conversion to Single Currency**
- 34.1 For evaluation and comparison purposes, the price quoted in different currency(ies) of the bid shall be converted into Nepalese Rupees using the selling exchange rates established by Nepal Rastra Bank and on the date of bid opening.

- 35. Domestic Preference** 35.1 Unless otherwise **specified in the BDS**, domestic preference shall be a factor in bid evaluation.
- 36. Evaluation of Bids** 36.1 The Purchaser shall evaluate each Bid that has been determined, up to this stage of the evaluation, to be substantially responsive.
- 36.2 To evaluate a Bid, the Purchaser shall only use all the criteria and methodologies defined in this Clause and in **Section III, Evaluation and Qualification Criteria**. No other criteria or methodology shall be permitted.
- 36.3 To evaluate a Bid, the Purchaser shall consider the following:
- (a) evaluation will be done for Items or Lots, as **specified in the BDS**; the bid price as quoted in accordance with ITB **15**;
 - (b) price adjustment for correction of arithmetic errors in accordance with ITB **33.1**;
 - (c) price adjustment due to discounts offered in accordance with ITB **15.4**; and
 - (d) price adjustment due to application of the evaluation criteria specified in the BDS from amongst those set out in **Section III, Evaluation and Qualification Criteria**. These criteria may include factors related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services which shall be expressed to the extent practicable in monetary terms to facilitate comparison of bids unless otherwise **specified in Section III Evaluation and Qualification Criteria**.
 - (e) price adjustment due to the application of a margin of preference in accordance with ITB clause **35**.
- 36.4 The Purchaser's evaluation of a bid will exclude and not take into account:
- (a) in the case of Goods offered from within Nepal, all sales tax and all other taxes, applicable in Nepal and payable on the Goods if the Contract is awarded to the Bidder;
 - (b) in the case of Goods offered from outside Nepal, all customs duties, sales tax, and other taxes, applicable in Nepal and payable on the Goods if the Contract is awarded to the Bidder; and

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- (c) any allowance for price adjustment during the period of performance of the Contract, if provided in the Bid.
- 36.5 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 15. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors, methodologies and criteria to be used shall be as specified in ITB 36.3 (d).
- 36.6 If so specified in the BDS, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations is specified in Section III, Evaluation and Qualification Criteria.
- 37. Comparison of Bids** 37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB **36**.
- 38. Post-qualification of the Bidder** 38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is qualified to perform the Contract satisfactorily.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB **19**.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 39.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders.

F. Award of Contract

- 40. Award Criteria** 40.1 The Purchaser shall select for awarding the Contract to the Bidder whose offer has been determined to be the lowest evaluated Bid and is substantially responsive to the Bidding Document, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
- 41. Purchaser's Right to Vary Quantities at Time of Award** 41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in **Section V, Schedule of Supply**, provided this does not exceed the percentages **indicated in the BDS**, and without any change in the unit prices or other terms and conditions of the Bid and the Bidding Document.
- 42. Notification of Intention to Award** 42.1 The Purchaser shall notify the concerned Bidder whose bid has been selected in accordance with ITB **40.1** within seven days of the selection of the bid, in writing that the Purchaser has intention to accept his/her bid and the information regarding name, address and bid amount of the selected bidder shall be given to all other bidders using the "Letter of Intention" form included in Section VIII. **Contract Forms**
- 42.2 If no bidder submits an application pursuant to ITB **45.1** within a period of seven days of providing the notice under ITB **42.1**, the Purchaser shall accept the bid selected in accordance with ITB **40.1** prior to the expiry of bid validity period, and notification of award shall be communicated to the bidder to furnish the performance security and sign the contract within fifteen days.
- 43. Performance Security** 43.1 Within fifteen (15) 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**, or another form acceptable to the Purchaser.
- 43.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract Agreement shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.
- 44. Signing of** 44.1 The successful Bidder shall sign the contract in the form included

- Contract** in **section VIII** after the submission of performance security in accordance with **ITB 43**.
- 44.2 At the same time, the Purchaser shall affix a public notice on the result of the award on its notice board and make arrangement to post the notice into its website, if it has; and if it does not have, into the website of the Public Procurement Monitoring Office, the contract award results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) name of the winning Bidder, and the Price it offered, as well as the duration and summary scope of the Contract awarded.
- 44.3 The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, within thirty days from the date of issuance of notification of award in accordance with **ITB 42.2**, requests in writing the grounds on which its bid was not selected
- 45. Complaint and Review**
- 45.1 If a Bidder, is not satisfied with the procurement process or Client's decision provided as per **ITB 42.1** and believes that the Client has committed an error or breach of duty which has or will result in loss to him then the Bidder may give an application for review of the decision to the Office Chief of the procuring entity (Purchaser) with reference to the error or breach of duty committed by the Client. The complaint application should be given within 7 days of receipt of the information regarding the issue of intention to accept letter by the Client. Application, for review of Client's decision, filed after the deadline shall not be processed
- 45.2 The Office chief of the Procuring Entity (Purchaser shall), within five (5) days after receiving the complaint application, give its decision with reasons, in writing pursuant to **ITB 45.1**:
- (a) whether to suspend the procurement proceeding and the procedure for further proceedings to be adopted; or
 - (b) whether or not to reject a complaint application.
- 45.3 If the Bidder, who has submitted the complaint application, is not satisfied with the decision of the Office Chief in accordance with **ITB 45.2**, or the decision by the Office Chief is not given within five (5) days of receipt of the complaint application pursuant to **ITB 45.1**, then the applicant, within seven (7) days of receipt of such decision, may file an application with relevant supporting documents to the Public Procurement Review Committee of the GoN, stating the reason of its disagreement on

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the decision of the Office Chief provided that its bid amount is above the amount **specified in the BDS**. Together with the review application, the applicant shall furnish a guarantee, in the form of cash or Bank guarantee equivalent to zero point five percent (0.5%) of its quoted bid amount, with the validity period of at least ninety (90) days from the date of the filing of the review application.

- 45.4 Late application filed after the deadline pursuant to ITB **45.3** shall not be processed
- 45.5 The Public Procurement Review Committee, shall give its decision within 30 days after receiving the review application filed pursuant to ITB 45.3 on the basis of i) the information and comments received from the Purchaser, ii) evidence, documents submitted along with the application by the applicant, and iii) information received on inquiring both the parties regarding the matter.
- 45.6 If the claim made by the Bidder pursuant to ITB **45.3** is justified, the Review Committee shall return the security deposit to the applicant, pursuant to ITB **45.3**, within seven (7) days of the Public Procurement Review Committee's decision.
- 45.7 If the claim made by the Bidder pursuant to ITB **45.3** is rejected by the Review Committee, the security deposit submitted by the Bidder pursuant to ITB **45.3** shall be forfeited.

46. Provision of PPA and PPR

- 46.1 If any provisions of this document are inconsistent with Public Procurement Act (PPA), 2063 or Public Procurement Regulations (PPR), 2064, the provisions of this document shall be void to the extent of such inconstancy and the provisions of PPA and PPR shall prevail.

Section II. Bid Data Sheet

Section II. Bid Data Sheet

A. Introduction	
ITB 1.1	<p>Name of the Purchaser: <i>Government of Nepal, Department of Roads, Mechanical Branch</i></p> <p>Name and identification number of the contract: <i>Procurement of Supply and Delivery of Equipment and Spare Parts “Hydraulic Excavator with Breaker”</i> <i>Contract No.: RD/MB/EP/69-70/3</i></p>
ITB 2.1	<p>Name of the Project: <i>Equipment Procurement</i></p> <p>Name of the DP: Not Applicable</p> <p>Implementing Agency: <i>Government of Nepal, Department of Roads, Mechanical Branch</i></p> <p>Funding : GoN Funded [Budget Head No.: 337162/4]</p>
ITB 4.3	A list of debarred firms is available at http://www.ppmo.gov.np
ITB 4.8	<p>Tax clearance certificate or proof of submission of income return for fiscal year 2068/069.</p> <p>The foreign Bidder shall declare to submit following documents at the time of Bid Submission:</p> <ol style="list-style-type: none"> 1. A written declaration made by the bidder, with a statement that s/he is not ineligible to participate in the procurement proceedings; has no conflict of interest in the proposed procurement proceedings, and has not been punished for a profession or business related offense. 2. Statement and disclosure of local agent/representative: <ol style="list-style-type: none"> a.) A foreign Bidder wishing to have or already having a local agent should state the following: <ol style="list-style-type: none"> i. Name and address of the agent/representative. ii. Amount of commission, the agent /representative is entitled to get, currency of payment and mode of payment. iii. Other agreement with agent/representative, if any. iv. Local Agent’s PAN Registration Certificate and Agency declaration letter.

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ITB 4.8	<p>b.) If the bid has been submitted stating that no local agent has been appointed and later on it is found that local agent had been appointed or if it is proved that the amount of commission stated is less than the actual amount then the bidder will be fined an amount equivalent to the amount to be received by the agent and action will be taken as per the Public Procurement Act (GoN).</p> <p>Resident foreign bidder shall submit PAN/VAT certificate and tax clearance certificate or proof of submission of income return for fiscal year 2068/069 at the time of bid submission.</p>
ITB 5.1	Bidders from the following countries are not eligible: Not Applicable
B. Bidding Document	
ITB 8.1	<p>For clarification purposes only, the Purchaser's address is: Attention: Deputy Director General Name of the Purchaser: Department of Roads, Mechanical Branch Address: Babarmahal, Kathmandu Country: Nepal Telephone: +977-1-4262510 Facsimile Number: +977-1-4262510 Electronic Mail Address: dormechb@dor.gov.np</p>
ITB 8.1	The purchaser will respond in writing to any request for clarification provided that such request is received no later than ten (10) days prior to the deadline date for submission of bid.
ITB 8.2	A Pre-Bid meeting shall not take place.
C. Preparation of Bids	
ITB 11.1	The language of the Bid is: English
ITB 12.1 (h)	<p>The Bidder shall submit the following additional documents with its Bid:</p> <p><i>a) Manufacturer's authorization(s) (Such authorization letter shall be furnished in accordance to the sample format of bid document).</i></p> <p><i>b) Statement and disclosure of local agent (if any), as specified in ITB 19.4 (A local agent bidding on behalf of the Supplier shall also furnish Agency registration, VAT registration and tax clearance certificates or proof of submission of income return for fiscal year 2068/69).</i></p>

Section II. Bid Data Sheet

	<p><i>c) All other necessary documents as indicated in Section III, Evaluation and Qualification Criteria (Qualification Requirements).</i></p>
ITB 14.1	Alternative Bids <i>shall not be</i> permitted.
ITB 15.5	The Incoterms edition is: <i>Incoterms 2010</i>
<u>ITB 15.6 (b) i</u>	<p><i>For Goods offered from outside the Purchaser's country, the Bidder shall quote prices using the following Incoterm:</i></p> <p><u>CIP [Final Destination] Price</u></p> <p><i>The total CIP (Final Destination) price quoted shall be the price to deliver the goods to the final destination in Nepal and is to be quoted in a manner as indicated in Price schedule (for goods manufactured outside Nepal, to be imported) of the bid document.</i></p> <p><i>For such CIP site price quoted in the case of goods from outside Nepal, the seller should take the responsibility for clearing at Port of discharge and Nepalese border customs and transportation and delivering it to site. All such costs incurred should be included in the CIP site Price.</i></p> <p><i>The prices of the spare parts shall be quoted as specified in the Section V, Schedule of Requirement, Spare Parts Appendix.</i></p> <p><i>The bidder shall not include in his price customs duty, VAT, or any other local taxes, that is collected by Government of Nepal on the goods as a consignment, if any.</i></p> <p><i>In case of supplies from India, the bidder should quote in Indian Currency. If Excise Duty is applicable, goods should be supplied in Duty Refundable Procedures (DRP).</i></p>
ITB 15.6 (b) ii and (c) v	<p>Final Destination(Project Site):</p> <p><i>DoR, Heavy Equipment Division, Itahari, Nepal</i></p>
ITB 15.6 (b) (iii)	<p>In addition to the CIP price specified in ITB 15.6 (b)(i), the price of the Goods manufactured outside Nepal shall be quoted:</p> <p><i>Not Applicable</i></p>
ITB 15.6 (d)	<p>The Supplier shall provide the following related service:</p> <p><i>a. The supplier shall arrange and conduct training for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied. Such training shall be conducted for two weeks in the country of origin of the equipment or in places as may be mutually agreed</i></p>

Section II. Bid Data Sheet

	<i>upon. All the cost incurred in this training program for the trainees shall be borne by the supplier and such cost to include training fees, lodging, fooding, traveling expenses and allowances of US\$ 125.00 or equivalent per day per person of the trainees.</i>
ITB 15.7	The prices quoted by the Bidder <i>shall not</i> be adjustable. (The Price shall be fixed).
ITB 15.8	Prices quoted for each lot shall correspond at least to 100 % of the items specified for each lot. Prices quoted for each item of a lot shall correspond at least to 100 % of the quantities specified for this item of a lot.
ITB 18.3	Period of time the Goods are expected to be functioning (for the purpose of spare parts): 10 years
ITB 19.2	Manufacturer's authorization is: Required A Manufacturer's Authorization letter is only required for the following items: (i) Hydraulic Excavator
ITB 19.3	After sales service is: Required The Bidder shall include with its bid, evidence that it will be represented by an Agent in the country.
ITB 20.1	The bid validity period shall be 90 (Ninety) days.
ITB 21.1	<i>A Bid Security is required.</i> <i>The amount and the currency of the Bid Security shall be : NRs. 3,50,000.00 (or equivalent in freely convertible currency)</i> <i>The bid security shall at least be valid till [i.e.15 June 2013] (30 days beyond the bid validity) and to be furnished in a format as specified in Section IV Bidding Forms of the bid document.</i> <i>Any charges, bank or otherwise, incurred in furnishing the bid security shall be for the account of the Bidder. The Bidding Guarantee shall be payable in the currency of the bid or in Nepalese Rupees. The successful bidder may be required to extend the validity of the bid security up to the time when the performance bond is furnished. Bid securities will be returned to the unsuccessful bidders.</i>
ITB 21.2	If the Bidder wishes to submit the Bid Security in the form of cash, the cash should be deposited in Deposit Account No.: 131235 (in behalf of Department of Roads, Mechanical Branch, Babar Mahal) at Nepal

Section II. Bid Data Sheet

	<p><i>Rastra Bank, Thapathali, Kathmandu</i> and submit the receipt of the deposited amount of cash along with the bid.</p> <p>or</p> <p>If the Bidder wishes to submit the Bid Security in the form of unconditional bank guarantee, the bidder should submit the original copy of the guarantee along with the bid.</p> <p><i>A bid security issued by foreign bank, which must be counter guaranteed by an "A" class commercial bank in Nepal acceptable to the Purchaser.</i></p>
D. Submission and Opening of Bids	
ITB 22.1	In addition to the original of the Bid, the number of copies is: <i>ONE</i>
ITB 23.1	Bidders <i>shall not</i> have the option of submitting their bids electronically.
ITB 23.1	If bidders submit their bids electronically, the electronic bidding submission procedures shall be: Not Applicable
ITB 23.3 (c)	<p>The inner and outer envelopes shall bear the following additional identification marks:</p> <p>IFB title: <i>Procurement of Supply and Delivery of Equipment and Spare Parts: "Hydraulic Excavator with Breaker"</i></p> <p>IFB Number: <i>Contract No.: RD/MB/EP/69-70/3</i></p>
ITB 24.1	<p>The address and deadline for bid submission is:</p> <p>Place: <i>Department of Roads, Mechanical Branch, Babarmahal, Kathmandu, Nepal</i></p> <p>Date: <i>15 February, 2013</i></p> <p>Time: <i>12:00 hours</i></p>
ITB 27.1	<p>The bid opening shall take place at:</p> <p>Place: <i>Department of Roads, Mechanical Branch, Babarmahal, Kathmandu, Nepal</i></p> <p>Date: <i>15 February, 2013</i></p> <p>Time: <i>13:00 hours</i></p>
ITB 27.1	If electronic bid submission is permitted in accordance with ITB 22.1, the specific bid opening procedures shall be: Not Applicable

E. Evaluation, and Comparison of Bids	
ITB 35.1	Domestic preference shall not be a bid evaluation factor.
ITB 36. 3 (a)	<p>Evaluation will be done for Lot(s).</p> <p>Note: Bids will be evaluated lot by lot. If a Price Schedule shows items listed but not priced, their prices shall be assumed to be included in the prices of other items. An item not listed in the Price Schedule shall be assumed to be not included in the bid, and provided that the bid is substantially responsive, the average price of the item quoted by substantially responsive bidders will be added to the bid price and the equivalent total cost of the bid so determined will be used for price comparison.</p>
ITB 36.3(d)	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria:</p> <p>(a) Deviation in Delivery schedule: YES</p> <p>Delivery schedule. 120 days (As stated in Section V, Schedule of requirements). Acceptable range: Additional 30 days</p> <p>The Equipment under the invitation for bids shall be delivered at the time specified in the schedule of requirement. A delivery "adjustment" will be calculated for the bids at the rate of one twentieth of one percent (0.05%) of the Bid Price for each day of delay beyond the time specified in the Schedule of requirements within the acceptable range, and this will be added to the total bid price for the purpose of the evaluation. No credit shall be given for early delivery and bids offering delivery beyond the acceptable range shall be treated as NON RESPONSIVE.</p> <p>(b) Deviation in payment schedule: NO</p> <p>(c) the cost of major replacement components, mandatory spare parts, and service: NO</p> <p>(d) the availability of spare parts in Nepal and after-sales services for the equipment offered in the bid: NO (Not applicable for price adjustment purpose)</p> <p style="text-align: center;"><i>[However availability of after sales service is required as specified in Section III, Evaluation and Qualification Criteria under Qualification Requirements (d)]</i></p> <p>(e) the projected operating and maintenance costs during the life of</p>

Section II. Bid Data Sheet

	<p>the equipment: <i>NO</i></p> <p>(f) the performance and productivity of the equipment offered: <i>NO</i></p>
ITB 36.6	Bidders <i>shall not</i> be allowed to quote separate prices for one or more lots.
F. Award of Contract	
ITB 41.1	<p>The maximum percentage by which quantities may be increased is: Not Applicable</p> <p>The maximum percentage by which quantities may be decreased is: Not Applicable</p>
ITB 45.3	No application can be submitted before the Review Committee for review against the decision made by the <u>Office Chief of the Procuring Entity (Purchaser)</u> for the bid amount up to the equivalent value of <u>Nepalese Rupees 20,000,000 (twenty million)</u>

Section III. Evaluation and Qualification Criteria

The purpose of the Evaluation and Qualification Criteria (EQC) is to specify the criteria that the Purchaser will use to evaluate the Bids and post-qualify the lowest-evaluated Bidder.

Section III. Evaluation and Qualification Criteria

Table of Criteria

Evaluation Criteria

Scope

Multiple Contracts

Technical Criteria

Economic Criteria

Domestic preference

Qualification Criteria

Evaluation Criteria

1. Scope

Criteria for Bid evaluation:

The evaluation of a bid will exclude and will not take into account;

- i) Custom duties and other similar import taxes which will be payable on the Equipment if the contract is awarded to the bidder, and*
- ii) Any conditional allowance for price adjustment provided in the bid.*

The Purchaser will evaluate Bid based upon the Total Bid price (Total site delivery price to final destination) for the equipment including Spare parts and provision of related services. And in addition the following factors shall be considered, in the manner as indicated.

- i. Delivery schedule offered in the Bid {as specified in ITB 36.3(d)}*
- ii. The cost of Spare Parts as specified in section V, Schedule of requirement, Spare parts appendix.*

1.1 Local Handling and Inland Transportation

Costs for Inland transportation, insurance, and other incidental costs for delivery of the goods from the EXW premises, or port of entry, or border point to Project Site (final destination) as defined in Section V, Schedule of Requirements, shall be quoted in the Price Schedule.

1.2 Minor Omissions or Missing Items

Pursuant to Sub-Clause 30(c) of the Instructions to Bidders, the cost of all quantifiable nonmaterial nonconformities or omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any nonmaterial nonconformities and omissions for the purpose of ensuring fair comparison of Bids.

2. Multiple Contracts [NOT APPLICABLE]

The Purchaser shall award multiple contracts to the Bidder that offers the lowest evaluated combination of bids (one contract per bid) and meets the post-qualification criteria (this Section III, Sub-Section ITB 38.2 Post-Qualification Requirements)

The Purchaser shall:

- (a) evaluate only lots or contracts that include at least the percentages of items per lot and quantity per item as specified in ITB Sub Clause 15.8
- (b) take into account:

- (i) the lowest-evaluated bid for each lot and
- (ii) the price reduction per lot and the methodology for its application as offered by the Bidder in its bid”

3. Technical Criteria

The offered goods and related services shall have compliance with Technical Specifications provided in Section V, Schedule of Requirements.

The major items are indicated by Bold or Highlighted letters/alphabets/figures in the Technical Specification. Compliance with or variation from departmental requirement of offered goods shall be determined by comparing against each and every criterion specified in bidding document. The offered specification column of the technical Specification supported by relevant Technical Catalogues/Leaflets of the offered Equipment shall be useful for verification of such specifications.

If there is a major deviation in specification of the equipment proposed by the bidder from that specified in the technical specifications, then the bids shall be considered as non-responsive.

4. Economic Criteria

4.1 Adjustment for Deviations from the Terms of Payment : Not Permitted

Deviations from the Terms of Payment as specified in Special Conditions of Contracts, Sub clause 15.1, are not permitted.

4.2 Adjustment for Deviations in the Delivery and Completion Schedule : Permitted

Delivery schedule. *120 days (As specified in Section V, Schedule of requirements).*

Acceptable range: *Additional 30 days [As per ITB 36.3 (d)]*

The Goods covered by this bidding process are required to be delivered in accordance with, and completed within, the Delivery and Completion Schedule specified in Section V, Schedule of Requirements. No credit will be given for earlier completion. **Bids offering late** contract performance schedules will be accepted but the Bids shall be adjusted in the evaluation by adding to the Bid Price at the rate of **one twentieth of one percent (0.05%)** of the bid price for each day of delay. Bids offering delivery schedules beyond **30 days** of the duration specified in Section V, Schedule of requirement, shall be rejected.

4.3 Operating and Maintenance Costs : [NOT APPLICABLE]

The Operating and Maintenance costs (O&M) need to be taken into account for bid evaluation purposes when such costs over the life cycle of the Goods represent an important cost in relation to the capital or investment cost of the Goods. Different technologies may involve large variations in the capital costs of the Goods and the costs associated with their O&M. Normally,

more elaborate technologies and materials used in the manufacturing of the Goods involve higher investment costs and lower O&M costs. O&M costs are evaluated at their present value over the life cycle of the Goods and then added to the price of the Goods.

Typical O&M cost factors for calculation are:

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

4.4 Spare Parts

The Purchaser shall list spare parts items in the Spare Parts Appendix, in Section V, Schedule of Requirements. If any item listed in the spare parts appendix happens to be not applicable bidder must clearly state them as non applicable. The total price of all applicable parts at unit prices quoted in the bid shall be included in the total bid price.

4.5 Performance and Productivity of the Goods : [NOT APPLICABLE]

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

- (i) Performance and productivity of the equipment. An adjustment representing the capitalized cost of additional operating costs over the life of the plant will be added to the bid price, for evaluation purposes if specified in the BDS Sub-Clause 36.3(d). The adjustment will be evaluated based on the drop in the guaranteed performance or efficiency offered in the bid below the norm of 100, using the methodology specified in BDS Sub-Clause 36.3(d).

or

- (ii) An adjustment to take into account the productivity of the goods offered in the bid will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 36.3(d). The adjustment will be evaluated based on the cost per unit of the actual productivity of goods offered in the bid with respect to minimum required values, using the methodology specified in BDS Sub-Clause 36.3(d).

4.6 Specific additional Criteria

Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be as detailed in BDS sub clause 36.3(d)

5. Domestic Preference : [NOT APPLICABLE]

If the BDS so specifies, the purchaser will grant a margin of preference to goods manufactured in Nepal, The nationality of the manufacturer or supplier is not a condition for such eligibility. The methods and stages set forth hereunder shall be followed in the evaluation and comparison of bids. Insert **one** of the following adjustment methods.

4.7 Method A

1. For comparison, responsive bids shall be classified in one of the following three groups:
 - (a) Group A: bids exclusively offering goods manufactured in for which (i) labor, raw material, and component from within Nepal account for 30 percent or more of the EXW price of the product offered, and (ii) the production facility in which those goods will be manufactured or assembled has been engaged in manufacturing/ assembling such goods at least since the time of bid submission.
 - (b) Group B: all other bids offering goods manufactured in Nepal.
 - (c) Group C: bids offering goods manufactured outside Nepal that have been already imported or that will be directly imported.
2. The price quoted for goods in bids of groups A and B shall include all duties and taxes paid or payable on the basic materials or component purchased in the domestic market or imported, but shall exclude the value added tax and similar taxes on the finished product. The price quoted for goods in bids of group C shall be on CIF or CIP (place of destination), which is exclusive of customs duties and other import taxes already paid or to be paid.
3. In the first step, all evaluated bids in each group shall be compared to determine the lowest bid in each group. Such lowest evaluated bids shall be compared with each other and if, as a result of this comparison, a bid from group A or group B is the lowest, it shall be selected for the award.
4. If as a result of the comparison under paragraph three above, the lowest evaluated bid is a bid from group C, the lowest evaluated bid from group C shall be further compared with the lowest evaluated bid from group A after adding to the evaluated price of goods offered in the bid from group C, for the purpose of this further comparison only, an amount equal to ten (10%) percent of the CIF or CIP bid price. The lowest evaluated bid determined from this last comparison shall be selected.

4.8 Method B

1. In supply, delivery and installation contracts in which there are a number of items of Goods and Related Services, a margin of preference shall be granted to eligible domestically produced Goods in accordance with the following provisions.
 - (a) The preference margin shall not be applied to the whole package but only to the eligible

Section III. Evaluation and Qualification Criteria

domestically produced Goods within the package;

(b) Goods offered from outside Nepal shall be quoted CIF or CIP and Goods offered locally shall be quoted EXW (ex-works free of sales and similar taxes);

(c) all other cost components for services and works such as costs for local handling, transportation, storage, installation, and commissioning shall be quoted separately;

(d) in the comparison of Bids, only the CIF or CIP price in each Bid of the Goods offered from outside Nepal shall be increased by ten (10%) percent;

(e) no margin of preference shall be applied to any associated services or works included in the package; and

(f) Bidders shall not be permitted or required to modify the mix of local and foreign Goods after bid opening.

Qualification Criteria

Qualification Requirements :

- a) *The bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the bidding documents of all goods and related services which the bidder proposes to supply under the contract.*
- b) *Bids submitted by an agent other than the manufacturer shall be accompanied by a letter certified by the manufacturer stating that the Bidder is the authorized agent of the said manufacturer for this bid. The letter of authorization should clearly state the extent of power delegated to such agent with respect to price quotation and negotiation. The principal / manufacturer is bound to honor any commitment of whatever nature made by his agent so authorized on behalf of his principal.*
- c) *The equipment offered shall be of latest model under standard production and should be in production for a minimum 1 year.*
- d) *The bidder is required to submit documentary evidence showing that s/he has already supplied at least 10 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 5 years.*
- e) *The Bidder is required to state clearly the specifications of his proposed equipment, if any. Compliance with or variation from the departmental requirement of the technical specifications shall be duly filled in and signed in the offered specification column of the technical Specification supported by relevant Technical Catalogues/ Leaflets of the offered Equipment. Any such information not provided or withheld will be taken as compliance with the specifications.*
- f) *The Bidder is required to submit detailed specifications catalogues and/or photographs, performance curve and operating characteristics. All such technical catalogues, charts etc. shall be manufacturer's standard publications, without any alterations. Each and every document, including the catalogues, brochures etc. must be indexed and referenced.*
- g) *The bidder shall quote all items applicable to offered equipment of the spare parts Appendix of the bid document. If any of the items listed in the spare parts Appendix happens to be non-applicable, the bidder must clearly state them as non-applicable. Moreover, the bidder shall also fill in part number and other details as specified in the Spare parts Appendix. The bidder, at the same time, has to submit a photocopy of the relevant pages of spare parts manual applicable to the offered equipment. Noncompliance with the above requirement shall result in disqualification.*

- h) The bidder shall submit a list of standard Accessories and cost of such accessories should be included in bid price.*
- i) Any additional terms and conditions contradictory to those stipulated in the bid document and which might involve hidden additional financial liabilities on the Purchaser's side shall not be included.*
- j) No bid will be considered if the offered quantity is different from that specified in the Technical Specification.*
- k) An agent can submit bids on behalf of more than one manufacturer but separate complete bids including bid security shall be submitted for each manufacturer.*
- l) The Bidder must sign the Bid submission Form, Bid Data Sheet and the Price Schedules of the Bid Document. Any erasures or change shall be initialed by the person signing the Bid.*

Section IV. Bidding Forms

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a. 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]*

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

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

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

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, excluding any discounts offered in item (d) below, is: *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies]*;
- (d) The discounts offered and the methodology for their application are:

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

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

- (e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 20.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in the amount ofpercent of the Contract Price for the due performance of the contract.
- (g) 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 each subcontractor and supplier]*

Section IV. Bidding Forms

- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.2;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible in accordance with ITB Sub-Clause 4.3;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

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

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

- (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: *[insert signature of person whose name and capacity are shown]*
In the capacity of *[insert legal capacity of person signing the Bid Submission Form]*

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

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

Dated on _____ day of _____, _____ *[insert date of signing]*

b. Bidder Information Form

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

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

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

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1. Bidder's Legal Name <i>[insert Bidder's legal name]</i>
2. In case of JV, legal name of each party: <i>[insert legal name of each party in JV]</i>
3. Bidder's actual or intended Country of Registration: <i>[insert actual or intended Country of Registration]</i>
4. Bidder's Year of Registration: <i>[insert Bidder's year of registration]</i>
5. Bidder's Legal Address in Country of Registration: <i>[insert Bidder's legal address in country of registration]</i>
6. Bidder's Authorized Representative Information Name: <i>[insert Authorized Representative's name]</i> Address: <i>[insert Authorized Representative's Address]</i> Telephone/Fax numbers: <i>[insert Authorized Representative's telephone/fax numbers]</i> Email Address: <i>[insert Authorized Representative's email address]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2. <input type="checkbox"/> In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB Sub-Clause 4.1. <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.

c. Joint Venture Partner Information Form

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

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

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

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1. Bidder's Legal Name: <i>[insert Bidder's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>
4. JV's Party Year of Registration: <i>[insert JV's Part year of registration]</i>
5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative Information Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2, above, in accordance with ITB Sub-Clauses 4.1 and 4.2. <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.

d. Financial Situation Form

Each Bidder or member of a JV must fill in this form

Financial Data for Previous 3 Years (in NRs)		
Year 1:	Year 2:	Year 3:

Information from Balance Sheet

Total Assets			
Total Liabilities			
Net Worth			
Current Assets			
Current Liabilities			

Information from Income Statement

Total Revenues			
Profits Before Taxes			
Profits After Taxes			

- Attached are copies of financial statements (balance sheets including all related notes, and income statements) for the last three or above years, as indicated above, complying with the following conditions?
- Historic financial statements must be audited by a certified accountant.
 - Historic financial statements must be complete, including all notes to the financial statements.
 - Historic financial statements must correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).

e. Average Annual Turnover Form

The information supplied should be the Annual Turnover of the Bidder in terms of the amounts billed to clients for each year for work in progress or completed to NRs at the end of the period reported. Each Bidder or member of a JV must fill in this form.

Annual Turn over Data for the Last 3 Years	
Year	Amount (in NRs)
Average Annual Turnover	

f. Financial Resources Form

Specify proposed sources of financing, such as liquid assets, unencumbered real assets, lines of credit, and other financial means, available to meet the total cash flow requirements of the subject contract

Financial Resources		
No.	Source of financing	Amount (in NRs)
1		
2		
3		

Note:

The letter from the Bank must be unconditional.

g. Pending Litigation Form

Each Bidder or member of a JV must fill in this form

Year	Matter in Dispute	Value of Pending Claim in NRs	Value of Pending Claim as a Percentage of Net Worth

h. Specific Experience Form

Bidder's Legal Name: _____ Date: _____
 IFB No.: _____
 Page _____ of _____ pages

Similar Contract	Information
Contract Identification	_____

Award date _____

Completion date _____

Role in Contract	Contractor	Management Contractor	Subcontractor
Total Contract amount	_____		Currency _____
Description of the Works performed by the Bidder	_____		
If partner in a JV or subcontractor, specify participation of total Contract amount	_____ %	_____	Currency _____
Purchaser's Name:	_____		
Purchaser's Address:	_____		

Purchaser's Telephone/fax number: _____

Purchaser's E-mail _____

The Bidder shall complete this form for each contract completed/in progress

i. Bid Security (Bank Guarantee)

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

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

Beneficiary: _____ *[Name and Address of Purchaser]*

Date: _____

BID GUARANTEE No.: _____

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

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

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

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders.

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) twenty-eight days after the expiration of the Bidder's Bid.

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

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

[signature(s)]

j. Manufacturer's Authorization

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

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

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

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 27 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]*

Price Schedule Forms

*[The Bidder shall fill in these Price Schedule Forms in accordance with the instructions indicated. The list of line items in column 1 of the **Price Schedules** shall coincide with the List of Goods and Related Services specified by the Purchaser in the Schedule of Requirements.]*

Price Schedules

Goods Manufactured Outside Nepal, to be Imported

(Group C bids, goods to be imported)					Date: _____			
Currencies in accordance with ITB Sub-Clause 15					ICB No: RD/MB/EP/69-70/3			
1	2	3	4	5	6	7	8	9
Line Item No	Description of Goods	Country of Origin	Delivery Date as defined by Incoterms	Quantity and physical unit	Unit price CIF [specify name of port of discharge] in accordance with ITB 15.6(b)(i)	Total CIF Price per line item [name of port of discharge] (Col. 5x6)	Price per line item for inland transportation and other services required in Nepal to convey the Goods to their final destination specified in BDS	Total CIP (Final Destination) Price per Line item (Col. 7+8)
<i>[insert number of the item]</i>	<i>[insert name of good]</i>	<i>[insert country of origin of the Good]</i>	<i>[insert quoted Delivery Date]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price CIF per unit]</i>	<i>[insert total CIF price per line item]</i>	<i>[insert the corresponding price per line item]</i>	<i>[insert total CIP (.....Final Destination) price of the line item]</i>
1	<u>Equipment:</u> Make: Model:							
2	<u>Spare Parts</u> (As specified in spare parts appendix)							
Total Bid Price in Words.....							Total Bid Price	

Name of Bidder:

Signature of Bidder

Date

Note:

- i. This form may be expanded if necessary.
- ii. Currencies to be used in accordance with Clause 16 of Instructions to Bidder.
- iii. In case of discrepancy between unit price and total, unit price shall prevail.
- iv. The cost of Related service as per SCC (GCC 10.1) should be borne by the Bidder (Supplier).

Section V. Schedule of Requirements

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1. List of Goods and Delivery Schedule

Line Item N°	Description of Goods	Quantity	Physical unit	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) Date		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [to be provided by the bidder]
<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>[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>
1	<p><u>Equipment:</u></p> <p>a) Excavator</p> <p> Make:</p> <p> Model:</p> <p>b) Breaker</p> <p> Make:</p> <p> Model:</p>	1 (One)	Unit	DoR, HED, Itahari, Nepal		<p>Within 120 days after receipt of Letter of Credit</p> <p>[Additional 30 days as per ITB 36.3 (d)]</p>	
2	Spare parts as specified in spare parts appendix	1 (One)	Lot				

2. List of Related Services and Completion Schedule

Service	Description of Service	Quantity	Physical Unit	Place where Services shall be performed	Final Completion Date(s) of Services
[insert Service No]	[insert description of Related Services]	[insert quantity of items to be supplied]	[insert physical unit for the items]	[insert name of the Place]	[insert required Completion Date(s)]
1	<i>Training for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied for the duration of two weeks.</i> [as per SCC (GCC 10.1)]	<i>1 (One)</i>	<i>Package</i>	<i>In Country of origin of the equipment or in places as may be mutually agreed upon.</i>	<i>Within three months after receipt of Letter of Credit</i>

Note:

All the cost incurred in the training program as specified in Section V, Schedule of Requirements for Related Services shall be borne by the Bidder as per SCC (GCC 10.1).

3. Technical Specifications

Excavator, Hydraulic, Crawler Mounted with Breaker

Qty: 1 Unit

S.N.	CRITERIA	DEPARTMENTAL REQUIREMENT	OFFERED SPECIFICATION
1.	General	Crawler mounted hydraulic excavator, with Breaker suitable for operation under rough working conditions and adverse climatic condition at operating altitude of 2000 m and ambient temperature varying between -5 ^o C to 50 ^o C.	Make: Model: Country of Origin:
2.	Engine	Water-cooled diesel engine developing SAE rated net flywheel horse power not less than 135 HP at governed rpm. Shall be provided with cold starting device, heavy-duty air cleaner, heavy-duty fuel filter system and direct electric 24 volt starting system. Exhaust pipe shall be deflector type.	Make: Model:
3.	Gauges	Gauges or meters as necessary for efficient operation and maintenance.	
4.	Hydraulic system	The lift, crowd and bucket mechanism shall be operated by hydraulic cylinders. Ample pump and reservoir capacity shall be furnished for maximum operating cycles without overheating. Replaceable element type oil filter shall be fitted.	
5.	Under carriage	Track type undercarriage, heavy duty with track adjustment, sprocket, track rollers and idlers, sealed and lubricated. Track type Approx. 600 mm triple grouser track shoe.	
6.	Working Range	1. Maximum digging height : ≥ 9000 mm 2. Maximum digging depth : ≥ 6000 mm 3. Maximum digging reach : ≥ 9000 mm (Ground Level)	
7.	Bucket	General-purpose bucket with bolt on teeth SAE rated capacity (nominally heaped) of 1.0 cu.m. approximately.	
8.	Operating Weight	20,000 kg Class (±10 %)	
9.	Cab	The excavator shall be furnished with an operator's cab. The cab shall be completely enclosed and shall be equipped with tinted safety glass to provide 360 degree visibility. The operator's position shall have an adjustable seat with armrests.	

Section V. Schedule of Requirements

10.	Breaker	The excavator shall have all the arrangements for the attachment and operation of hydraulic Breaker. <u>Details of the Breaker to be supplied along with hydraulic excavator:</u> Breaker Service Weight: 1700 kg Class ($\pm 20\%$) Working tool Diameter: Approx. 120 mm Useful tool length : Not less than 350 mm (The breaker should be compatible with supplied hydraulic excavator and be supplied under the same contract package along with hydraulic excavator)	Make: Model:
11.	Essential Accessories	<ol style="list-style-type: none"> 1. Service hour meter 2. Electric windscreen wipers. 3. Heater and defroster. 4. 2 working lights. 5. Door locks. 6. Breaker tools <ol style="list-style-type: none"> a) Conical point type: 2 Nos. b) Flat chisel type : 1 No. 	
12.	Instructions	All signs and instructions in the equipment shall be in English.	
13.	Manuals	<ol style="list-style-type: none"> 1. One copy of the Operator's and Owner's Instructions and Maintenance manual in English shall be supplied with each equipment 2. Two copies of following manuals in English shall be supplied: <ol style="list-style-type: none"> a) Spare parts catalogue b) Comprehensive workshop manual 	
14.	Spare parts	Supplier shall provide the manufacturer recommended ex-works price of spare parts for one unit of equipment as follows <ol style="list-style-type: none"> 1. List of spare parts as specified in spare parts APPENDIX. 	
15.	Tools	A set of tools as required for general maintenance shall be supplied with in a lockable tool box for each unit.	
16.	Color	Orange / Construction equipment yellow	
17.	Warranty	Manufacturer shall provide a minimum of one year warranty after Acceptance by the department.	

Section V. Schedule of Requirements

18.	Proven performance	<p>1. The machine offered shall be a current model under standard production by the manufacturer for at least one year.</p> <p>2. The bidder shall provide the manufacturer's data of the performance of the unit to include the fuel consumption, performance curve of the engine and production capacity of the unit.</p>	
19.	Initial Service	The supplier shall provide with the equipment all the necessary filters and spare parts required for the first two services, after the equipment has been commissioned and accepted.	
20.	Related Service	The supplier shall arrange and conduct training for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied for two weeks in the country of origin of the equipment or in places as may be mutually agreed upon as specified in SCC (GCC 10.1) (Name of Country to be specified).	
21.	Delivery	The Excavator 1 unit with breaker and its spare parts shall be delivered to: Department of Roads, Heavy Equipment Division, Itahari, Nepal	

Note:

- a) The major items are indicated by bold and highlighted letters/alphabets/figures in the technical specifications. Non-compliance of these major items will result in non-responsiveness of the bid offer as per ITB 31.3.
- b) The bidder is required to submit documentary evidence showing that s/he has already supplied at least 10 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 5 years, as mentioned in *Section III, Evaluation and Qualification Criteria [Qualification requirements (d)]*.

Bidder's Signature

Date

4. Spare Part Appendix

Spare parts for Hydraulic Excavator with Breaker

Description	Part No.	Applicable unit/mc.	Ex-Work Price	Qty. Reqd.	Total Ex-Work Price
Engine group					
Fuel Filter Element				2 set	
Oil Filter Element, Engine				2 set	
Air Cleaner Element				2 set	
Glow plug				1 set	
Fan belt				1 set	
Hydraulic & Transmission					
Element, Hydraulic filter				2 pc	
Undercarriage					
Track Roller, Lower				4 pc	
Carrier Roller, Upper				2 pc	
Ground engaging tools					
Bucket Teeth Assy. with nuts and bolts				1 set	
Total EXW Price					
Total FOB Price					
Total CIF Price (Name of port of discharge.....)					

Bidder's Signature Date

Note:

- a) The bidder shall quote all items applicable to offered equipment of the spare parts appendix of the bid document. If any of the items listed in the spare parts appendix happens to be non-applicable, the bidder must clearly state them as non-applicable. Moreover, the bidder should also fill in part number and other details as specified in the Spare parts appendix. The bidder, at the same time, has to submit a comprehensive spare parts manual applicable to the offered equipment.
- b) Wherever applicable, the part no., applicable units/machine and unit rates shall be clearly mentioned.
- c) Quantity specified as sets indicate total quantity applicable to one unit/ machine.
- d) The name of the parts indicates general functional use, if it differs from the one, its own identity name may be used.

5. Drawings [Not Applicable]

These Bidding Documents includes *[insert “the following” or “no”]* drawings.

[If documents shall be included, insert the following List of Drawings]

List of Drawings		
Drawing Nr.	Drawing Name	Purpose

6. Inspection and Test

The following inspections and tests shall be performed:

Inspection and tests prior to shipment of Goods and at final acceptance are as follows:

- a. The purchaser shall appoint an Inspection Committee to inspect the goods delivered by the Supplier under this contract. The inspection shall be carried out at the place of delivery soonest possible after the arrival of the complete consignment and not later than fifteen days from the date of receipt of notification from the Supplier stating that the goods are ready for inspection.
- b. The Supplier or his representative shall be responsible for commissioning, testing and demonstrating to the Purchaser's Inspection Committee that the goods meet the specification requirements and also the claimed performances of the manufacturer. The goods shall be tested for 5 hours.
- c. All expenses involved in assembling and commissioning the goods including fuels, oils, machines etc. to meet the requirements of the contract, and the cost of any unsuccessful test or tests for this purpose shall be at the expense of the Supplier. Should there be any defect in material or workmanship, the Supplier will correct or cause to be corrected such defects or deviation from the contract requirement at his own expenses within thirty days from the date of such inspection.
- d. The Supplier shall be completely responsible for the goods until accepted by the Purchaser and should there be any items missing (according to the Invoice and / or packing list) or damaged, the Supplier shall restore such items. As soon as the goods have been found to meet the requirements of the contract, the Purchaser shall issue a certificate of acceptance and the warranty period of the said goods shall be enforced from the date of this certificate. All manuals and books as specified in the Technical Specifications shall be submitted by the Supplier before issuing the acceptance certificate.
- e. During commissioning of the goods at site, general training on familiarization of components of the machine shall be arranged by the Supplier at free of cost.

Section VI. General Conditions of Contract

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

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

Section VI. General Conditions of Contract

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1. Definitions

- 1.1 The following words and expressions shall have the meanings hereby assigned to them:
- (a) “Contract” means the Agreement entered into between the Purchaser and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.
 - (b) “Contract Documents” means the documents listed in the Agreement, including any amendments thereto.
 - (c) “Contract Price” means the price payable to the Supplier as specified in the Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.
 - (d) “Day” means calendar day.
 - (e) “Delivery” means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the Contract.
 - (f) “Completion” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract.
 - (g) “GCC” means the General Conditions of Contract.
 - (h) “GoN” means the Government of Nepal.
 - (i) “Goods” means all of the commodities, raw material, machinery and equipment, and/or other materials that the Supplier is required to supply to the Purchaser under the Contract.
 - (j) “Purchaser’s Country” is the country of Nepal.
 - (k) “Purchaser” means the entity purchasing the Goods and Related Services, as specified in the SCC.
 - (l) “Related Services” means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract.
 - (m) “SCC” means the Special Conditions of Contract.
 - (n) “Subcontractor” means any natural person, private or government entity, or a combination of the above, including

its legal successors or permitted assigns, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

(o) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Agreement, and includes the legal successors or permitted assigns of the Supplier.

(p) “The Site,” where applicable, means the place named in the SCC.

2. Contract Documents

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

3. Fraud and Corruption

3.1 Public procurement act, 2063 requires that public Entities, Bidders, Supplies, Contractors and consultant under Public contract to serve the highest standard of ethics during the procurement and execution of such contract.

3.2 If the Purchaser determines at any time that the Supplier has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Purchaser may, after giving 15 days notice to the Supplier, terminate the Supplier's employment under the Contract and the provisions of Clause 34.1 shall apply.

(a) For the purposes of this provision, the terms set forth below as follows:

(i) “corrupt practice” means the offering, giving, receiving, or soliciting, directly or indirectly, of anything 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 or omission of facts in order to influence a procurement process or the execution of a contract;

(iii) “collusive practice” means a scheme or arrangement between two or more Bidders, with or without the knowledge of the Borrower, designed to establish bid prices at artificial, non competitive levels; and;

(iv) “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the procurement

Section VI. General Conditions of Contract

process or affect the execution of a contract;

(v) “obstructive practice” means

(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a GoN/DP investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or

(bb) acts intended to materially impede the exercise of the GoN/DP’s inspection and audit rights provided for under ITB Clause 3.5 and GCC Clause 25.

3.3 Without prejudice to any other rights of the Purchaser under this Contract, on the recommendation of the Purchaser, Public Procurement Monitoring Office may **blacklist** a Bidder/Supplier for its conduct for a period of one (1) to three (3) years including on the following grounds and seriousness of the act committed by the bidder:

- (a) if it is established that the Supplier has committed acts specified in ITB 3.2,
- (b) if it is established later that the Bidder has committed substantial defect in implementation of the contract or has not substantially fulfilled its obligations under the contract or the completed work is not of the specified quality as per the contract.

3.4 In case of DP funded bid, DP:

- (a) will cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a beneficiary of the loan engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower having taken timely and appropriate action satisfactory to the Bank to remedy the situation;
- (b) will sanction a firm or individual, including declaring them ineligible, either indefinitely or for a stated period of time, to be awarded a Bank-financed contract if it at any time determines that they have, directly or through an agent, engaged, in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Bank-financed

contract; and

- (c) will have the right to require that Suppliers to permit the Bank 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 Bank.

4. Interpretation

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

4.2 Incoterms

- (a) The meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
- (b) EXW, CIF, CIP, and other similar terms, shall be governed by the rules prescribed in the current edition of Incoterms, published by the International Chamber of Commerce at the date of the Invitation for Bids or as specified in the SCC.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract.

4.4 Amendment

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

4.5 Non-waiver

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

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the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

4.6 Severability

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

5. Language

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

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

6. Joint Venture, Consortium or Association

6.1 Unless otherwise specified in the SCC, if the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. A bidder can submit only one bid either as a partner of the joint venture or individually. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.

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. Governing Law

8.1 The Contract shall be governed by and interpreted in accordance with the laws of the Nepal, unless otherwise specified in the SCC.

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- 9. Settlement of Disputes**
- 9.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 9.2 If the parties fail to resolve such a dispute or difference by mutual consultation within thirty (30) days from the commencement of such consultation, either party may require that the dispute be referred for resolution to the formal mechanisms **specified in the SCC.**
- 10. Scope of Supply**
- 10.1 Subject to the SCC, the Goods and Related Services to be supplied shall be as **specified in Section V, Schedule of Supply.**
- 10.2 Unless otherwise stipulated in the Contract, the Scope of Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining Delivery and Completion of the Goods and Related Services as if such items were expressly mentioned in the Contract.
- 11. Delivery**
- 11.1 Subject to GCC Sub-Clause **32.1**, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section V, Schedule of Supply. The details of shipping and other documents to be furnished by the Supplier **are specified in the SCC.**
- 12. Supplier's Responsibilities**
- 12.1 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause **10**, and the Delivery and Completion Schedule, as per GCC Clause **11.**
- 13. Purchaser's Responsibilities**
- 13.1 Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from public authorities of Nepal, 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.
- 13.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC Sub-Clause **13.1.**
- 14. Contract Price**
- 14.1 The Contract Price shall be as specified in the Agreement subject to any additions and adjustments thereto, or deductions there from, as may be made pursuant to the Contract.

14.2 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC.

15. Terms of Payment

15.1 The Contract Price shall be paid as specified in the SCC.

15.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 11 and upon fulfillment of all the obligations stipulated in the Contract.

15.3 Payments shall be made promptly by the Purchaser, no later than thirty (30) days after submission of an invoice or request for payment by the Supplier, and the Purchaser has accepted it.

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

15.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the GCC 15.3, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until due payment has been made.

16. Taxes and Duties

16.1 For goods supplied from outside Nepal, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Nepal. However, Tax deduction at source shall be applied as per taxation laws of Nepal.

16.2 For goods supplied from within the Nepal, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser. Tax deduction at source shall be applied as per taxation law of Nepal.

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

- 17. Performance Security**
- 17.1 The Supplier shall, within fifteen (15) days of the receipt of notification of Contract award, provide a Performance Security for the due performance of the Contract in the amounts and currencies specified in the SCC.
- 17.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 17.3 The Performance Security shall be denominated in the currencies of the Contract, or in a freely convertible currency acceptable to the Purchaser, and shall be in one of the forms stipulated by the Purchaser in the SCC, or in another form acceptable to the Purchaser.
- 17.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations.
- 18. Copy right**
- 18.1 The copyright in all drawings, documents, and other materials containing data and information furnished to the Purchaser by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the Purchaser directly or through the Supplier by any third party, including suppliers of materials, the copyright in such materials shall remain vested in such third party.
- 19. Confidential Information**
- 19.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 19.
- 19.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the Contract. Similarly, the Supplier shall not use

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such documents, data, and other information received from the Purchaser for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

19.3 The obligation of a party under GCC Sub-Clauses 19.1 and 19.2 above, however, shall not apply to information that:

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

19.4 The above provisions of GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

19.5 The provisions of GCC Clause 19 shall survive completion or termination, for whatever reason, of the Contract.

20. Sub-contracting

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

20.2 Subcontracts shall comply with the provisions of GCC Clauses 3.

21. Specifications and Standards

21.1 Technical Specifications and Drawings

- (a) The Supplier shall ensure that the Goods and Related Services comply with the technical specifications and other provisions of the Contract.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a notice of such disclaimer to the Purchaser.

- (c) The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section V, Schedule of Supply and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the country of origin of the Goods.
- 21.2 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Section V, Schedule of Supply. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 32.
- 22. Packing and Documents**
- 22.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the final destination of the Goods and the absence of heavy handling facilities at all points in transit.
- 22.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Purchaser.
- 23. Insurance**
- 23.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured, in a freely convertible currency from an eligible country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner **specified in the SCC**.
- 24. Transportation**
- 24.1 Unless otherwise specified in the SCC, obligations for transportation of the Goods shall be in accordance with the Incoterms specified in Sections V, Schedule of Supply.
- 25. Inspections and Tests**
- 25.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in Sections V, Schedule of Supply.

- 25.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the final destination of the Goods, or in another place in Nepal as **specified in the SCC**. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 25.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause **25.2**, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 25.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 25.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 25.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 25.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause **25.4**.

- 25.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause **25.6**, shall release the Supplier from any warranties or other obligations under the Contract.
- 26. Liquidated Damages**
- 26.1 Except as provided under GCC Clause **31**, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in the SCC. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause **34**.
- 27. Warranty**
- 27.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 27.2 Subject to GCC Sub-Clause **21.1**, the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 27.3 Unless otherwise specified in the SCC, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC, or for eighteen (18) months after the date of shipment or loading in the country of origin, whichever period concludes earlier.
- 27.4 The Purchaser shall give Notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 27.5 Upon receipt of such Notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.

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

**28. Patent
Indemnity**

28.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 28.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

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

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

28.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 28.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

28.3 If the Supplier fails to notify the Purchaser within thirty (30) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.

28.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such

proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

28.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

29. Limitation of Liability

29.1 Except in cases of gross negligence or willful misconduct :

(a) neither party shall be liable to the other party for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser; and

(b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort, or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Purchaser with respect to patent infringement.

30. Change in Laws and Regulations

30.1 Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of Nepal where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 14.

- 31. Force Majeure**
- 31.1 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.
- 31.2 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.
- 31.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 32. Change Orders and Contract Amendments**
- 32.1 The Purchaser may at any time order the Supplier through Notice in accordance GCC Clause 7, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 32.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery and Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within thirty (30) days from the date of the Supplier’s receipt of the Purchaser’s change order.
- 32.3 Prices to be charged by the Supplier for any Related Services

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

33. Extensions of Time

33.1 If at any time during performance of the Contract, the Supplier or its Subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 11, the Supplier shall promptly and at least seven (7) days before the expiry of procurement contract, notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

Except in case of Force Majeure, as provided under GCC Clause 31, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

34. Termination

34.1 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
 - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 33;
 - (ii) if the Supplier fails to perform any other obligation under the Contract; or
 - (iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 34.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related

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Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

34.2 Termination for Insolvency.

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

34.3 Termination for Convenience.

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

35. Assignment

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

Section VII. Special Conditions of Contract

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

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

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

Section VII. Special Conditions of Contract

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

GCC 1.1(k)	The Purchaser is: <i>Government of Nepal, Department of Roads, Mechanical Branch</i>
GCC 1.1 (p)	The Site is: Place of Delivery: <i>Department of Roads, Heavy Equipment Division, Itahari, Nepal</i>
GCC 4.2 (b)	The version of Incoterms shall be: <i>Incoterm 2010</i>
GCC 5.1	The language shall be: <i>English</i>
GCC 6.1	The individuals or firms in a joint venture, consortium or association “ shall ” jointly and severally liable.
GCC 7.1	For notices , the Purchaser’s address shall be: Name and Address of the Purchaser: <i>Department of Roads, Mechanical Branch, Babarmahal, Kathmandu, Nepal</i> Telephone number: +977-1-4262510 Facsimile number: +977-1-4262510 e-mail Address: dormechb@dor.gov.np
GCC 8.1	The governing law shall be the law of: <i>Nepal</i>
GCC 9.2	The formal mechanism for the resolution of disputes shall be: If the dispute is not settled amicably or no attempt is made to settle the dispute amicably within 30 days of mutual consultation as per GCC 9.2 then within 15 days the dispute shall be referred to an Adjudicator if the Contract amount does not exceed NRs.100.00 million. If the Contract amount exceeds NRs.100.00 million then the dispute shall be referred to a three member Dispute Resolution Committee (DRB). The appointing authority for the Adjudicator shall be Nepal Council for Arbitration (NEPCA). In case of DRB, each Party shall nominate one member for the approval of the other Party. The first two members shall recommend and the Parties shall agree upon the third member, who shall act as chairman of the DRB.

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GCC 9.2	<p>The terms of the remuneration of either the Adjudicator or each of the threemembers, including the remuneration of any expert whom the Adjudicator or DB may consult, shall be mutually agreed upon by the Parties when agreeing the terms of appointment and each party shall be responsible for paying one-half of this remuneration and associated costs.</p> <p>Within 30 days after receiving dispute reference, or within such other period as may be proposed by the Adjudicator or DB and approved by both Parties, the Adjudicator or DB shall give its decision, with reasons. The decision shall be binding on both Parties, who shall promptly give effect to it unless and until it shall be revised in an amicable settlement or an arbitral award as described below.</p> <p>If either Party is dissatisfied with the Adjudicator or the DB’s decision, then either Party may, within 30 days after receiving the decision, give notice to the other Party of its dissatisfaction and intention to commence arbitration.. The Arbitration proceedings shall be as follows:</p> <p><i>“In case of dispute between the Purchaser and the Supplier who is national of Nepal, the dispute shall be referred to arbitration in accordance with the rules of Nepal Council of Arbitration.”</i></p> <p>“In the case of a dispute between the Purchaser and the Foreign Supplier, the dispute shall be settled by arbitration in accordance with the provisions of the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules.”</p>
GCC 10.1	<p>The Scope of Supply as defined in: <i>Section V, Schedule of requirements, which are as follows:</i></p> <p><i>1. Supply and Delivery of Hydraulic Excavator with Breaker, along with the Spare parts as specified in Spare parts appendix, and</i></p> <p><i>2. Related services: The supplier shall arrange and conduct training for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied. Such training shall be conducted for two weeks in the country of origin of the equipment or in places as may be mutually agreed upon. All the cost incurred in this training program for the trainees shall be borne by the Bidder/supplier and such cost to include training fees, lodging, fooding, traveling expenses and allowances of US\$ 125.00 or equivalent per day per person of the trainees.</i></p>
GCC 11.1	<p>Details of shipping and documents to be furnished by the Supplier shall be:</p> <p>For Goods supplied from abroad:</p> <p>Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by telex or fax the full details of the shipment, including</p>

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	<p>Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall send the following documents to the Purchaser, with a copy to the Insurance Company:</p> <ul style="list-style-type: none"> a) 4 copies of the Supplier’s invoice showing the description of the Goods, quantity, unit price, and total amount; b) Original and 2 copies of the negotiable, clean, on-board bill of lading marked “freight prepaid” and 2 copies of non-negotiable bill of lading; c) 4 copies of the packing list identifying contents of each package; d) Original and 3 copies of insurance certificate; e) Inspection certificate, issued by the nominated inspection agency and/or the Supplier’s factory inspection report; and f) 4 copies of certificate of origin. <p>The Purchaser shall receive the above documents at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.</p>
<p>GCC 14.2</p>	<p>The price adjustments shall be: <i>Not Applicable</i></p> <p>[For example insert: “Pursuant to GCC Sub-clause 14.2, prices payable to the Supplier, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:</p> $\Delta P = P_0 \left(a + b \frac{L_1}{L_0} + c \frac{M_1}{M_0} \right) - P_0$ <p>in which:</p> <ul style="list-style-type: none"> ΔP = adjustment amount payable to the Supplier. P_0 = Contract Price (base price). a = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent. b = estimated percentage of labor component in the Contract Price. c = estimated percentage of material component in the Contract Price. L_0, L_1 = labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment,

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	<p>respectively.</p> <p>M0, M1 = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.</p> <p>The coefficients a, b, and c shall be specified by the Purchaser in the bidding document. The sum of the three coefficients should be one (1) in every application of the formula.</p> <p>The Bidder shall indicate in its Bid, the source of the indices and the base dates for such indices.</p> <p>Base date = thirty (30) days prior to the deadline for submission of the Bids.</p> <p>Date of adjustment =weeks prior to date of shipment (representing the mid-point of the period of manufacture).</p> <p>The above price adjustment formula shall be invoked by either party subject to the following further conditions:</p> <ul style="list-style-type: none"> a) Price adjustment will be applied only if the resulting increase or decrease is more than <u>10%</u> percent of the Contract Price. b) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The Purchaser will, however, be entitled to any decrease in the prices of the Goods and Related Services subject to adjustment. c) If the currency in which the Contract Price (P0) is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above. d) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.] <p>[The maximum amount of price adjustment to be made pursuant to this clause shall not be more than twenty five (25) percent of the initial contract prices.]</p>
<p>GCC 15.1</p>	<p>The terms of payment to be made to the Supplier under the contract shall be as follows:</p> <p>The payment shall be made:</p> <ul style="list-style-type: none"> (a) Through an irrevocable confirmed letter of credit opened in

favour of the Bidder/Supplier or its nominee.

- (b) Through accounts division/unit of the Purchaser, or
- (c) Through the District Treasury Controller Office

Letter of Credit:

The Purchaser shall within 30 days from the date of signing of the contract open a qualified and divisible letter of credit in favor of the Supplier for the total contract price. However, in case of local bidders L/C shall be established in favour of their principal or the principal's nominee only. The validity of this letter of credit shall be fixed in accordance with the time of delivery stated in the Bid. In case of force majeure the validity of the letter of credit may be extended for the necessary period.

GCC 15.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:

Payment for Goods supplied from abroad:

Payment of foreign currency portion shall be made in Currency of the contract Price through L/C in the following manner:

(i) On Shipment: Ninety (90) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 11.1.

(ii) On Acceptance: Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) days of receipt of the Goods and successful completion of related services upon submission of claim supported by the acceptance certificate issued by the Purchaser.

Documents required for payments:

Payments of the above installments shall be made against the handing over by the Supplier to the bank of the following documents.

(1) As regards the installment under (i) above; all documents described and listed in SCC (GCC 11.1-Goods from abroad).

(2) As regards the installment under (ii) above; a certificate from the Purchaser to the Supplier acknowledging that the goods have been accepted by the purchaser and,

(3) As regards the release of performance bond, the purchaser will send a letter to the Supplier acknowledging that the Supplier has fulfilled his obligations as to the guarantee for the goods.

Section VII. Special Conditions of Contract

GCC 15.1	Payment of local currency portion shall be made in <i>Nepalese Rupees</i> within thirty (30) days of presentation of claim supported by a certificate from the Purchaser declaring that the Goods have been delivered and that all other contracted Services have been performed.
GCC 15.4	The currencies for payments shall be: <i>Payment will be made in the currency requested by supplier. However should such currency be non-convertible any convertible currency may be used. In case of supplied from India, the payment shall be made in Indian Currency.</i>
GCC 15.5	The interest rate that shall be applied for payment delay is: <i>Not Applicable</i>
GCC 16.1	For goods supplied from outside Nepal: Taxes and Duties: <i>1. Outside Nepal: Any export tax, fee or other charges of whatsoever nature now existing or which may hereafter be imposed outside Nepal shall be for the Supplier's account.</i> <i>2. Inside Nepal: Custom duty, surcharge and VAT or and other local taxes that may be collected by the Government of Nepal or local agents shall be for the Purchaser's account and shall not be included in the Bid Price. However, if required, the Supplier should pay these amounts and purchaser shall reimburse the amount paid on submission of documentary evidences.</i>
GCC 17.1	The Supplier shall provide a Performance Security of <i>five (5) percent</i> of the Contract Price. The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Purchaser.
GCC 17.3	The types of acceptable Performance Securities are: A bank guarantee issued by a reputable bank located in the Purchaser's country or abroad, acceptable to the Purchaser, in the format included in Section VIII, Contract Forms. Performance Security issued by foreign Bank must be counter – guaranteed by a "A" class commercial Bank in Nepal.
GCC 22.2	The packing, marking, and documentation within and outside the packages shall be: <i>Weight, size, Contract No., Purchaser's name and address, Supplier's name and address, Letter of credit No., Destination, CIF Port of Entry in bond to Nepal (if applicable), hoisting points for lifting shall be clearly painted outside the packing in indelible ink/paint.</i>

Section VII. Special Conditions of Contract

GCC 22.2	<p><i>a) Packing and Crating</i> <i>Goods shall be packed for export. Such packing must be sufficient to assure full protection until arrival at destination, adequately covering such hazards as rough handling and possible corrosion due to the elements. The Supplier shall be held responsible of all damages due to improper preparation and packing and transportation.</i></p> <p><i>b) Packing list</i> <i>One copy of the detailed packing list shall be enclosed in each package to be transported and shall be enclosed in water proof package or envelopes. Packing list shall not be attached to the outside of package nor shall any reference be made in the outside as to the contents of the package.</i></p>
GCC 23.1	<p>The insurance coverage shall be in accordance with:</p> <p>a) The supplier must insure the goods in an amount equal to 110 percent of the CIP price of the goods from "Warehouse" to "Warehouse" on "All Risks" basis, including War Risks, Arson and Strikes clauses, and shall have;</p> <p>(i) Coverage for all items against marine/air/inland transportation, transit and other risks and shall be valid till issuance of acceptance certificate;</p> <p>(ii) Coverage to allow complete replacement of any item lost or damaged;</p> <p>b) Supplier shall:</p> <p>(i) Initiate and pursue any claims; and,</p> <p>(ii) Promptly make arrangements for repair or replacement of any damaged items.</p>
GCC 24.1	<p>Obligations for transportation of the Goods shall be in accordance with:</p> <p>The responsibility for transportation of goods shall be in accordance with Incoterms. The supplier is required under the contract to transport the Goods to the place of final destination specified in Section V, Schedule of Requirements, defined as the project site. Transport to such place of destination in the Purchaser's country including insurance and storage, as specified in the contract, shall be arranged by the supplier, and related costs shall be included in the contract price.</p>

Section VII. Special Conditions of Contract

GCC 24.1	<p>All dispatches shall be on the basis of delivery to the address stated in the technical specification. Insurance covering each dispatch from factory to the place of delivery shall thus be provided by the Supplier. Each and every item shall be insured up to delivery place at its total contract price delivered at site in Nepal, plus 10% of sum against all insurable risks until acceptance by the purchaser. For such insurance any indemnity shall be payable in a currency freely useable to replace or repair the goods and shall be payable to the purchaser. The Supplier shall be responsible for all correspondence and negotiation associated with the claim. If necessary the purchaser will have the right to deduct any reasonable amount from balance payments due to the Supplier to cover the damages or losses, if so incurred on its way to destination. This amount shall not be refunded to the Supplier. The Supplier shall be responsible for the supply and delivery of the goods under this Contract at the places as specified in the Technical Specification.</p>
GCC 25.2	<p>Tests and Inspections specified in Section V, Schedule of Requirement (6. Inspection and Tests) shall be carried out at following time and place:</p> <p>Goods: Hydraulic Excavator with Breaker and Spare Parts Time: Not later than fifteen days from the date of receipt of notification from the Supplier stating that the goods are ready for inspection. Place: DoR, HED Address: Itahari Country: Nepal</p>
GCC 26.1	<p>The applicable rate of liquidated damages shall be: <i>0.05 percent of the Contract Price per day.</i></p>
GCC 26.1	<p>The maximum amount of liquidated damages shall be: <i>10% of Total contract price.</i></p> <p><i>If the delay is more than three months, in addition to demanding liquidated damages the Purchaser shall have right to terminate the Contract partly or wholly by giving notice to the Supplier.</i></p>
GCC 27.3	<p>The period of validity of the Warranty shall be: <i>12 months after the acceptance of the goods by the Purchaser.</i></p>

Section VII. Special Conditions of Contract

GCC 27.5	<p>The Supplier shall correct any defects covered by the Warranty within 30 days of being notified by the Purchaser of the occurrence of such defects.</p> <p>If the supplier fails to do so, the warranty period shall be extended by the delay period incurred after 30 days.</p> <p>If the Supplier, having been notified, fails to rectify the defects within 30 days, the Purchaser may proceed to take such remedial action as may be necessary from the deferred balance payment or performance bond, 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.</p>
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Section VIII. Contract Forms

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1. Letter of Intent
[on letterhead paper of the Purchaser]

.....[insert **date**].

To:..... [insert name and address of the Contractor]

Subject: **Issuance of letter of intent to award the contract .**

This is to notify you that, it is our intention to award the contract [insert**date**] for execution of the [insert.**name of the contract and identification number**] to you as your bid price [insert currency and **amount in figures and words**], as corrected and modified in accordance with the Instructions to Bidders is hereby selected as substantially responsive lowest evaluated bid.

Authorized Signature:

Name:

Title:

CC:

[Insert name and address of all other Bidders, who submitted the bid]

[Notes on Letter of Intent

The issuance of Letter of Intent is the information of the selection of the bid of the successful bidder by the Purchaser and for providing information to other unsuccessful bidders who participated in the bid as regards to the outcome of the procurement process. This standard form of Letter of Intent to Award should be filled in and sent to the successful Bidder only after evaluation and selection of substantially responsible lowest evaluated bid.]

2. Letter of Acceptance
[on letterhead paper of the Employer]

..... **date.**

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

Subject: **Notification of Award**

This is to notify that your Bid dated[insert **date**] for execution of the
.[insert **name of the contract and identification number**] for the Contract price of
.....[insert currency and **amount in figures and words**], as corrected in
accordance with the Instructions to Bidders is hereby accepted in accordance with the
Instruction to Bidders.

You are hereby instructed to contact this office to sign the formal contract agreement
within 15 days. As per the Conditions of Contract, you are also required to submit
Performance Security, as specified in SCC, consisting of a Bank Guarantee in the
format included in Section VIII (Contract Forms) of the Bidding Document.

The Purchaser shall forfeit the bid security, in case you fail to furnish the Performance
Security and to sign the contract within specified period.

Authorized Signature:

Name and Title of Signatory:

3. 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 { insert name of Country of Purchaser }, or corporation incorporated under the laws of { insert name of Country of Purchaser }] and having its principal place of business at [insert address of Purchaser] (hereinafter called “the Purchaser”), 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 the Contract currency(ies)] (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)]

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

3. In consideration of the payments to be made by the Purchaser to the Supplier as indicated in this Agreement, the Supplier hereby covenants with the Purchaser to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Related Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with the laws of “**Nepal**” on the day, month, and year indicated above.

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

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

Scope of Contract

SHEET.....OF.....

Contract No.: RD/MB/EP/69-70/3

Item No	Description	Country of Origin	Qty	CIP/CIF Site Price		Total Bid Price	Currency of Bid	Calendar days of Delivery at Site after Receipt of L/C	Remarks
				Unit	Total				

.....
 DIRECTOR GENERAL
 Department of Roads
 for Government of Nepal

Date:

Witness

 For.....
 (Address)

 (Title)

Seller

 (Address)
 Date:

Witness

 (Title)

4. Performance Security

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

[insert complete name and number of Contract]

To: [insert complete name of Purchaser]

WHEREAS [insert complete name of Supplier] (hereinafter “the Supplier”) has received the notification of award for the execution of [insert identification number and name of contract] (hereinafter “the Contract”).] (hereinafter “the Contract”).

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

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

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

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

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

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

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

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

Date: [insert date of signing]

Note: This Guarantee is valid until a date 30 days from the date of issue of the Certificate of Acceptance and/ or beyond the validity of warranty period.