



REPUBLIC OF GHANA

TENDER DOCUMENTS

**Procurement of Goods**

National Competitive Tender

Public Procurement Board

Accra, Ghana

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## Introduction and Instructions

These Tender Documents (TD) have been prepared by The Public Procurement Board for use by Procurement Entities in accordance with Public Procurement Act, 2003 (Act 663) of the Republic of Ghana for the procurement of goods through National Competitive Tender (NCT). The procedures and practices presented in this document have been developed through broad experience, and are mandatory for use in the procurement of Goods, which are estimated to cost more than **GHC200 million but less than GHC15 billion**<sup>1</sup>, financed in whole or in part with the public funds of the Republic of Ghana.

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

Care should be taken to check the relevance of the provisions of the STD against the requirements of the specific goods to be procured. The following general directions should be observed when using the documents:

- a. Specific details, such as the “name of the Purchaser” and “address for Tender submission,” should be furnished in the Invitation for Tenders, in the Tender Data Sheet, and in the Special Conditions of Contract. The final documents should contain neither blank spaces nor options.
- b. All Tender documents described elsewhere in this document are normally required for the procurement of Goods. However, they should be adapted as necessary to the specific requirements of the particular project.
- c. This Tender document is intended to serve on a repetitive basis. Modifications to meet the specific procurement requirements of a project should be provided on in the Special Conditions of Contract. If modifications are to be made in Tender procedures, they can be presented in the Tender Data Sheet. The text of Instructions to Tenders and General Conditions of Contract shall remain unaltered.
- d. These documents have been prepared for Tender where either pre-qualification or post-qualification applies. The process of pre-qualification of Tenders is not covered in this Standard Tender Document. Refer to the Standard Pre-qualification Document issued by the Public Procurement Board.
- e. The italicised Notes in boxes, italicised remarks in brackets [ ] and italicised footnotes in this Standard Tender Document are not part of the

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<sup>1</sup> Or the equivalent threshold level as revised in accordance with the Public Procurement Act, 2003 Act (663)

text. They contain guidance and instructions for the Procurement Entity preparing and issuing the document, and should not be incorporated in the final customized version. The cover should be modified as required to identify the Tender documents as to the names of the Project, Contract and Purchaser, in addition to date of issue.

## Section I. Invitation for Tenders

### *Notes on the Invitation for Tenders*

*The Invitation for Tenders (IFT) shall be issued as*

- a. an advertisement in at least one newspaper of general circulation in Ghana on two consecutive days;*
- b. an advertisement in the Procurement Bulletin and/or well-known technical magazines, for large, specialized, or important contracts;*
- c. a letter addressed to interested Tenderers who, following the publication of the General Procurement Notice, have expressed interest in the Tender for the goods for which the invitation is issued;*

*and*

*The Invitation for Tenders provides information that enables potential Tenderers to decide whether to participate. Apart from the essential items listed in the Standard Tender Documents (STD), the Invitation for Tenders should also indicate any important Tender evaluation criteria (for example, the application of a margin of preference in Tender evaluation) or qualification requirement (for example, a requirement for a minimum level of experience in manufacturing a similar type of goods for which the Invitation for Tenders is issued).*

*The Invitation for Tenders should be incorporated into the Tender documents. The information contained in the Invitation for Tenders must conform to the Tender documents and in particular to the relevant information in the Tender Data Sheet.*

## Invitation for Tenders

*[Name of Project] :*

Contract Identification No.:

1. The \_\_\_\_\_ *[insert name of Procurement Entity]* intends to apply part of its budgetary allocation to fund eligible payments under the contract for *[insert name/no. of contract/short description]* towards the realization of the above cited project.

BRIEF DESCRIPTION OF GOODS:

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2. The *[insert name of Procurement Entity]* invites sealed Tenders from eligible suppliers for the procurement of *[insert brief description of goods to be procured]*. Tendering will be conducted through the National Competitive Tendering procedures specified in the Public Procurement Act, 2003 and in the Guidelines of the Public Procurement Board of the Republic Ghana.
  3. Interested eligible Tenderers may obtain further information from *[insert name of Procurement Entity]* and inspect the Tender documents at the address given below *[state address at end of document]* from *[insert office hours]*.
  4. A complete set of Tender documents in English may be purchased by interested Tenderers on the submission of a written application to the address below *[state address at the end of document]* and upon a payment of a nonrefundable fee *[insert amount in Cedis]* for each set.
  5. Tenders must be delivered to the address below *[state address at the end of document]* at or before *[insert time and date]*<sup>2</sup>. Tenders shall be valid for a period of \_\_\_\_\_ *[insert number of days as specified in Tender Data Sheet]* days after the deadline of Tender submission. All Tenders must be accompanied by a Tender Security of *[insert amount in Cedis or minimum percentage of Tender price]*. Late Tenders will be rejected. Tenders will be opened in the presence of the Tenderers' representatives who choose to attend at the address below *[state address at end of document]* at *[insert time and date]*.

*[Insert name of office].*

*[Insert name of officer].*

*Insert postal address] and/or [Insert street address].*

*[Insert telephone number, indicate country and city code].*

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<sup>2</sup> This should be not earlier than 30 days after the date of publication of the Invitation for Tenders, depending on the size and complexity and the nature of the Goods and/or process of procurement.

*[Insert facsimile and/or email address].*

## **Section II. Instructions to Tenderers (ITT)**

### **A. Introduction**

- 1. Scope of Tender**
- 1.1 The \_\_\_\_\_ *[nameProcurement Entity]* (hereinafter referred to as the Purchaser) wishes to receive Tenders for supply and delivery of goods, materials and equipments described in Section V and VII hereof (hereinafter referred to as the Goods).
- 1.2 All Tenders are to be completed and returned to the Purchaser in accordance with these Instructions to Tenderers.
- 2. Source of Funds**
- 2.1 The Purchaser shall fund this procurement from part of its budgetary allocation to pay for the contract (hereinafter referred to as the “Contract”) for which this Invitation for Tenders is issued toward the realization of the *[Name of Project]*.
- 2.2 Payments will be made only at the request of the Purchaser and upon approval by a designated official of the Republic of Ghana in accordance with terms and conditions of the contract agreement between the Purchaser and the Supplier (hereinafter referred to as the “Contract”), and will be subject in all respects to the Financial Administration Act, 2003 (Act 654) of the Republic of Ghana. No party other than the Supplier shall derive any rights from the Contract or have any claims to the funds.
- 3. Eligible Tenderers**
- 3.1 This Invitation for Tenders is open to all eligible suppliers indicated in the Tender Data Sheet.
- 3.2 State owned enterprises may participate only if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Purchaser.
- 3.3 Tenderers should not be associated or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to

provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of goods to be purchased under this Invitation for Tenders.

3.4 Tenders shall not be under a declaration of ineligibility for corrupt and fraudulent practices issued by the Public Procurement Board in accordance with sub-clause 38.1.

**4. Eligible Goods and Services**

4.1 All goods and related services to be supplied under the contract shall have their origin in eligible source countries, as specified in the ITT Clause 3.1 and all expenditures made under the contract will be limited to such goods and services.

4.2 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. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.

4.3 The origin of goods and services is distinct from the nationality of the Tenderer.

**5. Cost of Tender**

5.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Purchaser will, in no case, be responsible or liable for those cost, regardless of the conduct or out come of the Tendering process.

**B. THE TENDER DOCUMENTS**

**6. Content of Tender Documents**

6.1 The goods required, Tender procedures and contract terms are prescribed in the Tender Documents. In addition to the Invitation for Tenders, the Tender Documents include:

- a. Instruction to Tenderers (ITT);
- b. Tender Data Sheet;
- c. General Conditions of Contract (GCC);
- d. Special Conditions of Contract (SCC);
- e. Schedule of Requirements;
- f. Technical Specifications;

- g. Tender Form and Price Schedules (Bill of Quantities);
- h. Tender Security Form;
- i. Contract Form and Contract Data Sheet;
- j. Performance Security Form;
- k. Bank Guarantee for Advance Payment Form;
- l. Manufacturer's Authorization Form.

6.2 The Tenderer is expected to examine all instructions, forms, terms and specifications in the Tender Documents. Failure to furnish all information required by the Tender Documents or submission of a Tender not substantially responsive to the Tender Documents in every respect will be at the Tenderer's risk and may result in the rejection of its Tender.

**7. Clarification of Tender Documents**

7.1 A prospective Tenderer requiring any clarification of the Tender Documents may request the Purchaser in writing or by fax at the Purchaser's address indicated in Tender Data Sheet. The Purchaser will respond in writing or by fax or by email to any request for clarification of the Tender documents which it receives no later than fourteen (14) days prior to the deadline for the submission of Tenders. The Purchaser's response (including an explanation of query without identifying the source of inquiry) will be sent in writing or fax or email to all perspective Tenders, who have purchased the Tender Documents.

**8. Amendment of Tender Documents**

8.1 At any time prior to the deadline for submission of Tenders, the Purchaser may, for any reason, modify the Tender Documents by issuing Addenda.

8.2 Any Addendum will be notified in writing or fax to all prospective Tenderers which have purchased the Tender Documents and shall be a part of the Tender document.

8.3 Where the Purchaser issues the Addendum very close to deadline for submission of Tenders, the Purchaser may extend the deadline for submission of Tenders in accordance with sub-clause 20.2 in order to afford prospective Tenderers a reasonable time to take the Addendum into account in preparing their Tenders.

**C. PREPARATION OF TENDERS**

**9. Language of Tender**

9.1 The Tender prepared by the Tenderer and all correspondence and supporting documents relating to the Tender exchanged by

the Tender and the Purchaser, shall be written in the English language.

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| <b>10. Documents<br/>Comprising the<br/>Tender</b> | 10.1 | <p>The Tenderer's Tender shall comprise the following components:</p> <ol style="list-style-type: none"> <li>a. A Tender Form and a price schedule completed in accordance with clauses 11,12 and 13.</li> <li>b. Documentary evidence established in accordance with Clause 14 that the Tenderer is eligible to Tender and is qualified to perform the contract if its Tender is accepted;</li> <li>c. Documentary evidence established in accordance with Clause 15 that the goods to be supplied by the Tenderer are genuine and newly manufactured goods and conform to the Tender Documents; and</li> <li>d. Tender security furnished in accordance with Clause 16 and in the form specified in Section VII.</li> </ol>   |
| <b>11. Tender Form</b>                             | 11.1 | <p>The Tenderer shall complete the Tender Form and the appropriate price schedule furnished in the Tender Documents, indicating the goods to be supplied, a brief description of the goods, their country or origin quality and prices.</p>   |
| <b>12. Tender Price</b>                            | 12.1 | <p>The Tenderer shall indicate on the appropriate Price Schedule the unit prices (where applicable) and total Tender price of the goods it proposes to supply under the contract. Prices indicated on the Price Schedule shall be entered separately in the following manner:</p> <ol style="list-style-type: none"> <li>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, excise and other duties<br/>and sales and other taxes already paid or payable;</li> <li>ii. the price for Inland Transportation, Insurance, and other Local Costs incidental to Delivery of the Goods to their final destination, if specified in the <i>Tender Data Sheet</i>;</li> <li>iii. the price of other incidental services, if any, listed in the <i>Tender Data Sheet</i>.</li> </ol> |

- 12.2 The terms EXW, CIP, etc. shall be governed by the rules prescribed in the current edition of *Incoterms* published by the *International Chamber of Commerce, Paris*.
- 12.3 The Tender's separation of price components in accordance with ITT Clause 12.1 above will be solely for the purpose of facilitating the comparison of Tenders by the Purchaser and will not in any way limit the Purchaser's right to contract on any of the terms offered.
- 12.4 Price quoted by the Tenderer shall remain fixed and valid until completion of the Contract performance and will not be subject to variation on any account.
- 12.5(a) A foreign Tenderer wishing to have or already having a local agent should state the following:
- i. Name and address of the Agent/Representative,
  - ii. The Agent/Representative providing type of services,
  - iii. Amount of commission if the Agent/ Representative is entitled to get such payment with specific reference to the tendering procedure,
  - iv. Other agreement with Agent/Representative, if any,
  - v. Tenderer should 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"
- 12.5(b) If the agent has not been appointed:
- i. Source of information about tender invitation,
  - ii. The remuneration given to the individual or firm/company or organisation to work on his behalf for submitting tender, representation in the Tender opening and other required action in connection with the tender,
  - iii. Transfer or handover an evidence of foreign currency exchanged which is required to be submitted with the

tender,

- iv. If the bank account of any Ghanaian 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 exchanged issued by the bank.

12.6 If the Tenderer intends to offer any discount, it should always be expressed in fixed percentage that will not vary as the quantity vary and be applicable to each unit rate.

12.7 A Tender submitted with an adjustable price quotation shall be treated as non-responsive and rejected pursuant to Clause 26.

**13. Currency of Tender**

13.1 Prices shall be quoted in Ghanaian Cedis (GHC)

**14. Document Establishing Tenderer's Eligibility and Qualifications**

14.1 Pursuant to Clause 10, the Tenderer shall furnish, as part of its Tender, documents establishing the Tenderer's eligibility to Tender and its qualifications to perform the contract if its Tender is accepted.

14.2 The documentary evidence of the Tenderer's eligibility to Tender shall establish to the Purchaser's satisfaction that the Tenderer, at the time of submission of its Tender, is from an eligible country.

14.3 The documentary evidence of the Tenderer's qualifications to perform the contract if its Tender is accepted shall establish to the Purchaser's satisfaction:

- a. that, in the case of a Tenderer offering to supply goods under the contract which the Tenderer did not manufacture or otherwise produce, the Tenderer shall be an established dealer in the goods of at least one year's standing and shall produce documentary evidence to show that he has been duly authorized by the good's manufacturer or producer to supply the goods in the Ghana.
- b. that the Tenderer has the financial, technical and production capability necessary to perform the contract.

- c. that the Tenderer meets the Qualifications as specified in Tender Data Sheet.

**15. Documents Establishing Goods' Eligibility and Conformity to Tender Documents**

- 15.1 Pursuant to Clause 10, the Tenderer shall furnish, as part of its Tender documents establishing the eligibility and conformity to the Tender Documents of all goods and services which the Tenderer proposes to supply under the contract.
- 15.2 The documentary evidence of the goods eligibility shall consist of a statement in the Price Schedule on the country of origin of the Goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 15.3 The documentary evidence of conformity of the Goods and Services to the Tender documents may be in the form of Literature, Drawings, and Data, and shall consist of:
  - a. a detailed description of the essential Technical and Performance characteristics of the Goods;
  - b. a list giving full particulars, including available sources and current prices of Spare Parts, Special Tools, etc., necessary for the proper and continuing functioning of the Goods for a period to be specified in the *Tender Data Sheet* following commencement of the use of the Goods by the Purchaser.

**16. Tender Security**

- 16.1 Pursuant to Clause 10, the Tenderer shall furnish as part of its Tender, Tender security as specified in the *Tender Data Sheet*. The Tender security is required to protect the Purchaser against the risk of the Tenderer's conduct, which would warrant the security's forfeiture pursuant to para. 16.6.
- 16.2 The Tender Security shall, at the Tenderer's option, be in the form of either a certified check, or Bank Guarantee from a bank in Ghana, a bond issued by an insurance or bonding institution, which has been determined by the Tenderer to be acceptable to the Purchaser. The format of the Tender Security should be in accordance with one of the Sample Forms of Tender Security included in Section VII or another

form acceptable to the Purchaser. The Tender Security shall be valid for 28 days beyond the period of validity of the Tender.

- 16.3 Any Tender not secured in accordance with paras 16.1 and 16.2 will be rejected by the Purchaser as non-responsive pursuant to clause 26
- 16.4 The Tender Security of unsuccessful Tenders will be returned within 14 days after the expiration of the Tender validity period prescribed in sub-clause 17.1.
- 16.5 The Tender Security of the successful Tenderer will be discharged when the Tenderer has furnished the required Performance Security and signed Contract.
- 16.6 The Tender Security shall be forfeited:
- a. if a Tenderer withdraws its Tender during the period of Tender Validity specified by the Tenderer on the Tender form; or
  - b. in case of a successful Tender, if the Tenderer fails within the specified time limit to:
    - i. sign the contract in accordance with Clause 36 or
    - ii. furnish performance security in accordance with Clause 37.

**17. Period of Validity of Tenders**

- 17.1 Tenders shall remain valid for the period as specified in the *TenderData* Sheet after the date of Tender opening prescribed by the Purchaser in Clause 20. A Tender valid for a shorter period shall be rejected by the Purchaser as non-responsive.
- 17.2 In exceptional circumstances, the Purchaser may solicit the Tenderers' consent to an extension of the period of Tender validity. The request and the responses thereto shall be in writing or by fax or by email. The validity of Tender security period provided under Clause 16 shall also be suitably extended. A Tenderer may refuse the request without forfeiting its Tender security. A Tenderer granting the request will not be required nor permitted to modify its Tender.

**18. Format and Signing of Tender**

- 18.1 The Tenderer shall prepare one original of the documents comprising the Tender as described in ITT Clause 10, bound with the volume containing the Form of Tender and Price Schedule, and clearly marked “**ORIGINAL**”. In addition, the Tenderer shall submit one copy of the Tender and clearly marked as “**COPY**”. In the event of discrepancy between them, the original shall prevail.
- 18.2 The original and copy of the Tender shall be typed or written in indelible ink and shall be signed by the Tenderer or a person or persons duly authorised to sign on behalf of the Tenderer. The latter authorisation shall be indicated by written power-of-attorney accompanying the Tender. All pages of the Tender, where entries or amendments have been made, shall be initialed by the person or persons signing the Tender.
- 18.3 The Tender shall contain no inter lineation, erasures or overwriting alterations or additions except as necessary to correct errors made by the Tenderer or those to comply with instructions issued by the Purchaser, in which case, such corrections shall be initialed by the person or persons signing the Tender.

**D. SUBMISSION OF TENDERS**

**19. Sealing and Marking of Tenders**

- 19.1 The Tenderer shall seal the original and the copy of the Tender in two inner envelopes and an outer envelope, duly marking the inner envelopes as “Original” and “Copy”.
- 19.2 The inner and outer envelopes shall:
- a. be addressed to the Purchaser at the address given in the *Tender Data Sheet*:
  - b. bear (the Project Name, the Invitation for Tenders number and Identification number if any).
  - c. provide a warning “**Not to Open Before**” the time and date for Tender opening as specified in the *Tender Data Sheet*.
- 19.3 In addition to the identification required in sub-clause 19.2, the inner envelope shall indicate the name and address of the Tenderer to enable the Tender to be returned unopened in case

it is declared “Late”, pursuant to sub-clause 21.

19.4 If the outer envelope is not sealed and marked as required by para 19.2, the Purchaser will assume no responsibility for the Tender’s misplacement or premature opening.

**20. Deadline for Submission of Tenders**

20.1 Tenders must be received by the Purchaser at the address and no later than the time and date specified in the *Tender Data Sheet*.

20.2 The Purchaser may, at its discretion, extend this deadline for the submission of Tenders by issuing an amendment in accordance with Clause 8, in which case, all rights and obligations of the Purchaser and Tenderers previously subject to the original deadline will thereafter be subject to the deadline as extended.

**21. Late Tenders**

21.1 Any Tender not received within the date and time specified in ITT Clause 20 will not be accepted and will be returned unopened.

**22. Modification and Withdrawal of Tender**

22.1 The Tenderer may modify or withdraw its Tender after the Tender submission, provided that written notice of the modification or withdrawal is received by the Purchaser twenty four (24) hours prior to the deadline prescribed for submission of Tenders in Clause 20.

22.2 The Tenderer’s modification or withdrawal notice shall be prepared, sealed, marked and dispatched in accordance with the provisions of Clause 18 and 19, with the outer and inner envelopes additionally marked “Modification” or “Withdrawal” as appropriate. A withdrawal notice may also be sent by fax or email but followed by a signed confirmation copy, received not later than the deadline for submission of Tenders.

22.3 No Tender may be modified or withdrawn subsequent to the deadline for submission of Tenders.

22.4 No Tender may be withdrawn in the interval between the deadline for submission of Tenders and the expiration of the period of Tender validity specified by the Tenderer on the Tender Form. Withdrawal of a Tender during this interval shall result in the Tenderer’s forfeiture of its Tender security,

pursuant to Clause 16.6.

- 22.5 Tenderers may only offer discounts, or otherwise modify the prices of their Tenders by submitting Tender modifications in accordance with ITT Clause 22, or included in the original Tender submission.

E. TENDER OPENING AND EVALUATION

- 23. Opening of Tenders by Purchaser**
- 23.1 The Purchaser will open Tenders including modifications made pursuant to Clause 22, in the presence of Tenderers' representatives who choose to attend, at *(Date and Time)*<sup>3</sup> and at the place specified in the *Tender Data Sheet*. The Tenderers' representatives who are present shall sign a register evidencing their attendance.
- 23.2 Envelope marked "WITHDRAWAL" shall be opened and read out first. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 22 shall not be opened.
- 23.3 The Tenderers' names, Tender prices, modifications, discounts offered, Tender withdrawals and the presence or absence of the requisite Tender security and such other details as the Purchaser, at its discretion, may consider appropriate will be announced and read aloud by the Purchaser at the Tender opening session.
- 23.4 The Purchaser will prepare minutes of the Tender opening, including the information disclosed to those present in accordance with sub-clause 23.3.
- 24. Process to be Confidential**
- 24.1 Information relating to the examination, clarification, evaluation, and comparison of Tenders and recommendations for the Award of Contract shall not be disclosed to Tenderers or any other persons not officially concerned with such process until the Award to the successful Tenderer has been announced.
- 25. Clarification of Tenders**
- 25.1 To assist in the examination, evaluation and comparison of Tenders, the Purchaser may, at its discretion, ask any Tenderer for clarification of its Tender, including breakdowns

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<sup>3</sup> *Should follow immediately or soon after Tender closing.*

of unit rates. The request for clarification and the response shall be in writing and no change in the price or substance of the Tender shall be sought, offered or permitted, except as required to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the Tenders.

**26. Examination  
of Tenders and  
Determination  
of  
Responsiveness**

- 26.1 The Purchaser will determine whether each Tender:
- a. meets the eligibility criteria defined in ITT Clause 3;
  - b. has been properly signed;
  - c. is accompanied by the required securities;
  - d. is substantially responsive to the requirements of the Tender documents.
- 26.2 Arithmetical errors will be rectified on the following basis:
- i. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected. If the Tenderer does not accept the correction of the errors, its Tender will be rejected, and its Tender Security may be forfeited,
  - ii. If there is a discrepancy between words and figures, the amount in words will prevail.
- 26.3 Prior to the detailed evaluation, pursuant to Clause 28, the Purchaser will determine the substantial responsiveness of each Tender to the Tender Documents. For purposes of these clauses, a substantially responsive Tender is one, which conforms to all the terms and conditions of the Tender Documents without material deviations. The Purchaser's determination of a Tenderer's responsiveness is to be based on the contents of the Tender itself without recourse to extrinsic evidence. A material deviation or reservation is one:
- a. which affects in any substantial way the Scope, Quality, or Performance of the Contract;
  - b. which limits in any substantial way, inconsistent with the Tender documents, the Purchaser's rights or the Tenderer's obligations under the contract; or

- c. whose rectification would affect unfairly the competitive position of other Tenderers presenting substantially responsive Tenders.

26.4 A Tender determined as not substantially responsive will be rejected by the Purchaser and may not subsequently be made responsive by the Tenderer by correction or withdrawal of nonconforming deviation or reservation.

26.5 The Purchaser may waive any minor informality or nonconformity or irregularity in a Tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Tender.

**28. Evaluation and Comparison of Tenders**

28.1 The Purchaser will evaluate and compare only the Tenders determined to be substantially responsive in accordance with ITT Clause 26.

28.2 The Purchaser's evaluation of a Tender will be on the bases of Tender Price as specified in the Price Schedule.

28.3 The Purchaser reserves the right to accept or reject any variation, deviation, or alternative offer. Variations, deviations, and alternative offers and other factors which are in excess of the requirements of the Tender documents or otherwise result in unsolicited benefits for the Purchaser will not be taken into account in Tender evaluation.

28.4 The Purchaser's evaluation of a Tender will take into account, in addition to the Tender Price quoted in accordance with ITT Clause 12.1, one or more of the following factors as specified in the *TenderData Sheet*, and quantified in ITT Clause 28.6:

- a. Delivery schedule offered in the Tender;  
*[Specify factors, if necessary as per departmental requirements]*
- c. the cost of components, mandatory spare parts, and service;  
*[Specify factors, if necessary as per departmental requirements]*
- d. Contractual and Commercial Deviations:  
*[Specify factors, if necessary as per departmental requirements]*

e. Other specific criteria indicated in the *Tender Data Sheet* and/or in the Technical Specifications.

28.5 For factors retained in the *Tender Data Sheet* pursuant to ITT 28.4, one or more of the following quantification methods will be applied, as detailed in the *Tender Data Sheet*:

a. **Delivery schedule:** The Goods covered under this Invitation are required to be delivered (shipped) within an acceptable range of days/weeks/months [*as applicable*] specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and Tenders offering delivery beyond this range will be treated as nonresponsive. Within this acceptable range, an adjustment per day, as specified in the *Tender Data Sheet*, will be added for evaluation to the Tender Price of Tenders offering delivery later than the Earliest Delivery Period specified in the Schedule of Requirements.

*[specify factors, if necessary as per departmental requirements. This Clause should be the elaboration of ITT Clause 28.5 (b)]*

b. **Cost of spare parts and services:** The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the *Tender Data Sheet*, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each Tender, will be added to the Tender Price. The cost to the purchaser of establishing the minimum service facilities and part inventories as outlined in the Tender data Sheet or elsewhere in the Tender Document if quoted separately shall be added to the Tender Price.

*[Specify factors, if necessary as per departmental requirements. This Clause should be the elaboration of ITT Clause 28.5 (d) and 28.6 (d)].*

c. **Contractual and Commercial Deviations:** The cost of all quantifiable deviations and omissions from the contractual and commercial conditions shall be evaluated. The Purchaser will make its own assessment of the cost of any deviations for the purpose of ensuring fair comparison of Tenders.

d. **Specific additional criteria:** The relevant evaluation

method shall be detailed in the *Tender Data Sheet* and/or in the Technical Specification.

- Alternative** 28.6 [*Specify alternative criteria for further enhancement of ITT Clause 28, if necessary as per departmental requirement*].
- 29. Margin of Preference** 29.1 A margin of Preference where applicable shall be provided as *specified in Tender Data Sheet*.
- 30. Contacting the Purchaser** 30.1 Subject to Clause 25, no Tenderer shall contact the Purchaser on any matter relating to its Tender, from the time of the Tender opening to the time the Contract is awarded. If the Tender wishes to bring additional information to the notice of the Purchaser, it should do so in writing.
- 30.2 Any effort by a Tenderer to influence the Purchaser in the Purchaser's Tender evaluation, Tender comparison or contract award decisions may result in the rejection of the Tenderer's Tender

#### F. AWARD OF CONTRACT

- 31. Postqualification<sup>4</sup>** 31.1 In the absence of prequalification, the Purchaser will determine to its satisfaction whether the Tenderer selected as having submitted the lowest evaluated responsive Tender is qualified to satisfactorily perform the Contract.
- 31.2 The determination will take into account the Tenderer's financial, technical and production capabilities/ resources. It will be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to Clause 14.3, as well as such other information as the Purchaser deems necessary and appropriate.
- 31.3 An affirmative determination will be a prerequisite for award of the Contract to the Tenderer. A negative determination will result in rejection of the Tenderer's Tender, in which event the Purchaser will proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's

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<sup>4</sup> *Wherever practicable and appropriate, specify minimum qualification requirements to be met if a prequalification procedure was not used prior to Tender.*

capabilities to perform satisfactorily.

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| <b>32. Award Criteria</b>  | 32.1              | Subject to Clause 34, the Purchaser will award the Contract to the successful Tenderer whose Tender has been determined to be substantially responsive and has been determined as the lowest-evaluated Tender, provided further that the Tenderer is determined to be qualified to perform the Contract satisfactorily.                                  |
| <b>33. Purchaser's Right to Vary Quantities at Time of Award</b>                   | 33.1 <sup>5</sup> | The Purchaser reserves the right at the time of award of Contract to increase or decrease by the percentage as specified in the <i>Tender Data Sheet</i> , the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit prices or other terms and conditions.                                      |
| <b>34. Purchaser's Right to Accept Any Tender and to Reject Any or All Tenders</b> | 34.1              | The Purchaser reserves the right to accept or reject any Tender, and to annul the Tender process and reject all Tenders, at any time prior to award of Contract, without thereby incurring any liability to the affected Tenderer or Tenderers or any obligation to inform the affected Tenderer or Tenderers of the grounds for the Purchaser's action. |
| <b>35. Notification of Award</b>   | 35.1              | The Tenderer whose Tender has been accepted will be notified of the award by the Purchaser prior to expiration of the Tender validity period by facsimile confirmed by a letter that its Tender has been accepted.   |
|  | 35.2              | The notification of award will constitute the formation of the Contract  |
|  | 35.3              | Upon the successful Tenderer's furnishing of performance security pursuant to Clause 37, the Purchaser will promptly notify each unsuccessful Tenderer and will discharge its Tender security, pursuant to Clause 16.  |
|  | 35.4              | The contract will incorporate all Agreements between the Purchaser and the successful Tenderer.  |

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<sup>5</sup> *Optional clause to be used only where appropriate. Insert appropriate percentage figure. Normally should not exceed 15%.*

- 36. Signing of Contract**
- 36.1 At the same time as the Purchaser notifies the successful Tenderer that its Tender has been accepted, the Purchaser will call the successful Tenderer in order to sign the Contract through Notification of Award.
- 36.2 Within fourteen (14) days of receipt of the Notification of Award, the successful Tenderer shall sign the Contract.
- 37. Performance Security**
- 37.1 Within 14 days of receipt of notification of award from the Purchaser, the successful Tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the Tender Documents; denominated in the type and proportion of amount as specified in the Notification of award.
- 37.2 Failure of the successful Tenderer to comply with the requirement of Clause 36 or sub-clause 37.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender security in which event the Purchaser may make the award to the next lowest evaluated Tender or call for new Tenders.
- 37.3 The Performance Security provided by the successful Tender in the form of a Bank Guarantee as specified in Section VII, shall be issued by a Bank in Ghana acceptable to the Purchaser.
- 38. Corrupt or Fraudulent Practices**
- 38.1 The Government of the Republic of Ghana requires that Tenderers under the contracts financed from public funds, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the following terms shall be interpreted as indicated:
- a. “corrupt practice” means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and
  - b. “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, and includes collusive practice among Tenderers (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the benefits of free and open competition;

- 38.2 a. The Purchaser will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;
  - b. The Purchaser will reject a proposal for award if it determines that the Tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question.
- 38.3 Furthermore, Tenderer shall be aware of the provision stated in sub-clause 24.1 (c) of the General Conditions of Contract.

## Tender Data Sheet

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

*[Instructions for completing the **Tender Data Sheet** are provided, as needed, in the notes in italics mentioned for the relevant ITT Clauses.]*

<b>Introduction</b>	
ITT.1.1	Name of Purchaser : ..... <i>[name of Procurement Entity]</i>
ITT. 2.1	The Source of Funds is .....
ITT. 2.1	Name of Contract : ..... <i>[For a Project requiring similar but separate items of equipment specified in the Schedule of Requirements, Tenders may be invited under alternative contract options, and the Tenderer should be allowed, at its option, to Tender for individual contracts or for a group of similar contracts (package). The basis for Tender evaluation and contract award, by item or package, shall be specified herein.]</i>
ITT 3.1	Invitation for Tenders is open to all those eligible suppliers who are : (a) registered within the Republic of Ghana, (b) registered as per the Income Tax Act of Ghana, and (c) VAT registered or (d) from an eligible source country, in the case of a Foreign Tenderer.
ITT 7.1	Purchaser's Name ..... Address : ..... Telephone or telex : ..... Facsimile numbers : ..... Email Address: ..... <i>[Purchaser's Name should be as per ITT Clause 1.1, above]</i>
ITT 8.1	Purchaser can modify Tender documents before the Deadline for submission of Tenders by issuing Addenda.
ITT 9.1	Language of the Tender : English.

<b>TENDER PRICE AND CURRENCY</b>	
ITT 12.1 (i)	The price quoted shall be : ..... The prices shall include all duties, taxes and other levies. The prices should be expressed in the term of EXW in Cedis (GHC).
ITT 12.1 (ii)	The Prices for inland transportation : GHC..... The prices for insurance : GHC..... The prices for other local cost :GHC.....
ITT 12.1 (iii)	The price of other incidental services : (a) .....GHC..... (b) .....GHC..... (c) .....GHC..... Total CIP to ..... [ <i>name of final destination</i> ] GHC.....
ITT 12.4	The prices shall be fixed
ITT 13.1	The prices shall be quoted in Cedis (GHC)
<b>PREPARATION AND SUBMISSION OF TENDERS</b>	
ITT 14.3 (c)	Qualification requirements.  i) The offered goods/equipment shall be latest and in current production for minimum of 2 years. If the offered model is new, the manufacturer must have experience in producing the similar model for a minimum of 2 years.  ii) The Tender shall furnish a list of users who had purchased same/similar goods/equipment in last 2 years., and number of equipment sold to them. They will be used as references to check the performance of the offered model, if necessary.  iii) Compliance with variation from the departmental requirement of the technical specification shall be duly filled in the offered specification column of the Technical Specification.  iv) Separate Tender shall be submitted for each package. No Tender will be considered if the offered quantity is different from that specified in

	<p>the Technical Specification.</p> <p>v) An agent can submit Tenders on behalf of more than one manufacturer but separate complete Tenders including Tender security shall be submitted for each manufacturer.</p> <p>vi) If an Agent submits Tenders on behalf of more than one Manufacturer, unless each such Tender is accompanied by a separate Tender Form for each Tender, and a Tender security, when required, for each Tender, and authorization from the respective Manufacturer, all such Tenders will be rejected as non-responsive.</p> <p>vii) Other qualifications.</p>
ITT 15.3 (b)	Spare parts required for ..... <i>[number]</i> of years of operation.
ITT 16.1	Amount of Tender Security : GHC ..... or 2% of Tender Price <i>[The amount may be expressed either as a fixed amount or as an amount not less than a 2% of the Tenderer's Tender Price, preferably the former.]</i>
ITT 17.1	Tender Validity Period : 45-90 days. <i>[as applicable]</i> <i>[The period should be sufficient to permit completion of the evaluation, review, the obtainment of approvals, and notification of award. Normally, the validity should be ninety (90) days, or shorter for simple goods (e.g. materials). A realistic period should be specified in order to avoid the need for extension.]</i>
ITT 18.1	Number of copies : Two
ITT 19.2 (a)	address for Tender submission : ..... ... ..... ... ..... ...
ITT 19.2 (b)	IFT title and number : .....
ITT 20.1	Deadline for Tender submission : Date : ..... <i>[yy/mm/dd]</i> Time : ..... <i>[hh : mm]</i> Place : .....

ITT 22.1	<p>Deadline for Tender Modification and Withdrawal :</p> <p>Date : ..... [yy/mm/dd]  Time : ..... [hh : mm]  Place : .....</p> <p><i>[Specify the date and time as twenty four (24) hours prior to the Deadline for Tender submission as per ITT Clause 20.1]</i></p>
ITT 23.1	<p>Tender Opening:</p> <p>Date : ..... [yy/mm/dd]  Time : ..... [hh : mm]  Place : .....</p> <p><i>[The date and time should be the same as for Tender submission specified under ITT 20.1 above, or immediately thereafter.]</i></p>
<b>TENDER EVALUATION</b>	
ITT 28.4	<p>Criteria for Tender evaluation shall be on the bases of :</p> <p>(i) CIP site price,  (ii) Delivery requirement as per Schedule of Requirements,  (iii) Specific standard or criteria as per Technical Specification,  (iv) Cost of Inland transportation, Insurance, incidental cost and other local cost.</p>
ITT 28.5 (a)	<p>Delivery schedule : Relevant parameters of delivery :</p> <p>(i) .....  (ii) .....  (iii) .....</p> <p><i>[Specify relevant parameters, if any required.]</i>  Adjustment expressed as a percentage of : 0.1% per day of the value of delayed Goods.</p>
ITT 28.5 (c)	<p>Cost of spare parts : GHC. .... [in total]  : GHC. .... [per unit]</p> <p>Initial period of operation is : 2 years.  List of items required is annexed to the Technical Specification.</p>

ITT 28.5 (f)	<p>Specific additional criteria are :</p> <p>(i) .....</p> <p>(ii) .....</p> <p>(iii) .....</p> <p><i>[If not applicable in Tender Data Sheet specify details on the evaluation method in the Technical Specifications.]</i></p>
ITT 28.5 Alternative	<i>[Specify the evaluation factors(s) if alternative provision is added in ITT 28.5.]</i>
ITT 29.1	A margin of preference shall be given up to 15% highr cost than the lowest evaluated Tender.
<b>CONTRACT AWARD</b>	
ITT 33.1	<p>Percentage for quantity increase or decrease : Fourteen per cent (14%)</p> <p><i>[as applicable for the nature of the Goods]</i></p> <p><i>[Optional ITT clause to be used only where appropriate.]</i></p>
ITT 35.1	Notification of Award shall be sent to the successful Tenderer at any time prior to expiration of Tender Validity.
ITT 37.1	Tenderer shall deliver a Performance Security in the amount as specified in the Notification of Award and in the form of Bank Guarantee within 14 days of the receipt of Notification of Award.

## Section III. General Conditions of Contract

### 1. Definitions

- 1.1 In this contract, the following terms shall be interpreted as indicated:
- a. “The Contract” means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein;
  - b. “The Contract Price” means the price payable to the Supplier under the contract for the full and proper performance of its contractual obligation;
  - c. “The Goods” means equipment, machinery, related Accessories, spare-parts and/or other materials which the Supplier is required to supply to the Purchaser under the contract;
  - d. “The Services” means services ancillary to the supply of the goods such as transportation and insurance and any other incidental services, such as installation, commissioning, the operational and maintenance training of the supplied equipment and other such obligations of the supplier covered under the Contract.
  - e. “The Purchaser” means the Procurement Entity of the Republic of Ghana purchasing the goods.
  - f. “The Supplier” means the individual or organization supplying the goods and services under this contract.
  - g. “The Purchaser’s Country” is Ghana.
  - h. “The Delivery Site” where applicable, means the place or places where supply of goods to deliver and performance of services to be complete.
  - i. “Day” means calendar day.
  - j. “Public funds” include:
    - (i) funds from government budget, Metropolitan Assembly budgets, Municipal Assembly budgets

or District Assembly budgets;

- (ii) funds from government Foundations;
- (iii) funds from government Trust Funds;
- (iv) funds from domestic loans and foreign loans taken or guaranteed by government;
- (v) funds from state foreign aid;
- (vi) revenue received from the economic activity of state or local government agencies or other legal persons in public law financed from the Government budget, Metropolitan Assembly budgets, District Assembly budgets or Government foundations;

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| <b>2. Application</b>       | 2.1 | These General Conditions shall apply to the extent that they are not superseded by provisions in other parts of the contract.   |
| <b>3. Country of Origin</b> | 3.1 | All goods and services supplied under the contract shall have their origin in Ghana or in eligible countries as specified in Special Condition of Contract.   |
|                             | 3.2 | For purposes of this clause “origin” means the place where the goods are mined, grown, produced or manufactured, or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components. |
|                             | 3.3 | The origin of Goods and Services is distinct from the nationality of the Supplier.  |
| <b>4. Standards</b>         | 4.1 | The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods’ country of origin, such standards shall be the latest issued by the concerned institution.   |
|                             | 4.2 | Wherever reference is made in the Technical Specifications to specific standards and codes to be met by the goods and   |

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

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| <b>5. Use of Contract Documents and Information</b> | <p>5.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.</p> <p>5.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information enumerated in sub-clause 5.1 except for purposes of performing the Contract.</p> <p>5.3 Any document, other than the Contract itself, enumerated in subclause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier's performance under the Contract if so required by the Purchaser.</p> |
| <b>6. Patent Rights</b>                             | <p>6.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in the Purchaser's country.</p>  |
| <b>7. Performance Security</b>                      | <p>7.1 Within fourteen (14) days after the Supplier's receipt of notification of award of the contract, the successful Tenderer shall furnish performance security to the Purchaser in the amount specified in the Special Conditions of Contract and in the form specified in Section VII.</p> <p>7.2 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.</p>  |

7.3 The performance security shall be denominated in the currency of the contract or in a freely convertible currency acceptable to the Purchaser and shall be in the form of an unconditional bank guarantee issued by a bank in Ghana acceptable to the Purchaser and in the form provided in the Tender Documents or another form acceptable to the Purchaser.

7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than 28 days after expiring of one year of warranty period following the date of issue of certificate of final acceptance of equipment after installation and commissioning of equipment at the final destination.

**8. Inspections and Tests**

8.1 The Purchaser or its Representative shall, at no extra cost, have the right to inspect and/or to test the goods to confirm their conformity to the Contract. The Special Conditions of Contract and/or the Technical Specifications shall specify what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing of the identity of any representatives retained for these purposes within 21 days after award of the Contract.

8.2 The inspections and tests may be conducted on the premises of the Supplier or its sub-Supplier(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its sub-Suppliers(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

8.3 Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser.

8.4 The Purchaser's right to inspect, test and, where necessary, reject the goods after the goods' arrival in the Purchaser's country shall in no way be limited or waived by reason of the goods having previously been inspected, tested and passed by the Purchaser or its Representative prior to the goods'

shipment from the country of origin.<sup>6</sup>

- 8.5 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.
- 8.6 A Certificate of Acceptance shall be issued by the Purchaser after necessary inspection and tests of the Goods supplied as specified in SCC.
- 9. Packing**
- 9.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.
- 9.2 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, as Specified in the Special Conditions of Contract (SCC), and in any subsequent instructions issued by the Purchaser.
- 10. Delivery and Transfer of Risk**
- 10.1 Delivery of the goods shall be made by the Supplier in accordance with the terms specified by the Purchaser in its Schedule of Requirements. The details of shipping and/or other documents to be furnished by the supplier are specified in the Special Conditions of Contract.
- 10.2 For purposes of the Contract, "FOB," "C&F," "CIF", "CIP", "EXW" and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of the International Rules for the

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<sup>6</sup> *It is intended that the Purchaser generally inspects the goods also on arrival at discharge port(s), and where a fresh independent inspection is for any reason considered necessary, the Supplier should be immediately notified and associated with the inspection which should be completed on a priority basis.*

Interpretation of the Trade Terms (INCOTERMS)<sup>7</sup> published by the International Chamber of Commerce (ICC), Paris.

10.3 Documents to be submitted by the Supplier are specified in Special Condition of Contract.

## **11. Insurance**

11.1 The goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified in the Special Conditions of Contract. Such insurance shall be arranged and paid for by the supplier.

11.2 Where delivery of the goods is required by the Purchaser on a CIF, CIP basis, the Supplier shall arrange and pay for marine insurance, naming the Purchaser as the beneficiary. Where delivery is on an FOB or C&F basis, marine insurance shall be the responsibility of the Purchaser.

## **12. Transportation**

12.1 Where the Supplier is required under the Contract to deliver the goods FOB, transport of the goods, up to and including the point of putting the goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

12.2 Where the Supplier is required under the Contract to deliver the goods C&F, CIP or CIF or to a specified destination within the Kingdom of Nepal, transport of the goods to the port of discharge or such other point in the country of destination including insurance and storage, as shall be specified in the Contract shall be arranged and paid for by the Supplier, and the related cost thereof shall be included in the Contract Price.

12.3 Where the Supplier is required to effect delivery under any other terms, the Supplier shall be required to meet all transport and storage expenses until delivery.

12.4 In all of the above cases, transportation of the goods after delivery shall be the responsibility of the Purchaser.

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<sup>7</sup> Where terms not defined in INCOTERMS are used in the Tender Documents, Purchaser should define the same, spelling out the costs to be borne by the Supplier and to be included in its Tender price.

12.5 Where the Supplier is required under the Contract to deliver the goods CIF or CIP or C&F, no further restriction shall be placed on the choice of the ocean carrier. Where the Supplier is required under the Contract (i) to deliver the goods FOB, and (ii) to arrange on behalf and at the expense of the Purchaser for ocean transportation on specified conference vessels or on national flag carriers of the Purchaser's country, the Supplier may arrange for such transportation on alternative carriers if the specified conference vessels or national flag carriers are not available to transport the goods within the time period(s) specified in the Contract.

**13. Incidental Services**

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

- a. performance or supervision of on-site assembly and/or startup of the supplied Goods;
- b. furnishing of tools required for assembly and/or maintenance of the supplied Goods;
- c. furnishing of a detailed operations and maintenance manual for each, appropriate unit of the supplied Goods;
- d. performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
- e. training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

**14. Spare Parts**

14.1 As specified in SCC, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- a. such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and

- b. in the event of termination of production of the spare parts:
  - i. advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
  - ii. following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

## 15. Warranty

- 15.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or materials is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 15.2 The warranty shall remain valid for (12) months after the goods, or any portion thereof as the case may be, have been delivered to the final destination indicated in the Contract and installed and commissioned to the satisfaction of the Purchaser.
- 15.3 The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the Supplier shall, within the period as specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Purchaser other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from EXW or to the final destination.
- 15.5 If the Supplier, having been notified, fails to take remedial action within forty-two (42) days from date of receipt of notice, the Purchaser may proceed to take such 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.

- 16. Payment**
- 16.1 The method and conditions of payment to be made to the Supplier under the Contract shall be specified in the Special Conditions of Contract.
- 16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 10, and upon fulfilment of other obligations stipulated in the Contract.
- 16.3 Payments shall be made promptly by the Purchaser, but in no case later than twenty eight (28) days after submission of an invoice or claim by the Supplier.
- 17. Prices**
- 17.1 Prices charged by the Supplier for goods and services delivered and services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorised in Special Conditions of Contract or in the Purchaser's request for Tender validity extension, as the case may be.
- 18. Change Orders**
- 18.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC Clause 31, make changes within the general scope of the Contract in any one or more of the following:
- a. drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
  - b. the method of shipment or packing;
  - c. the place of delivery; and/or
  - d. the Services to be provided by the Supplier.
- 18.2 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 may be made in the Contract Price or delivery schedule, or both, and the Contract may accordingly be amended. Any claims by the Supplier for adjustment under this clause must

be asserted within twenty eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

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| <b>19. Contract Amendments</b>                  | 19.1 | Subject to GCC Clause 18, no variation in or modification of the terms of the Contract shall be made, except by written amendment signed by the parties.  |
| <b>20. Assignment</b>                           | 20.1 | The Supplier shall not assign, in whole or in part, its obligations to perform under the Contract, except with the Purchaser's prior written consent.   |
| <b>21. Subcontracts</b>                         | 21.1 | The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Tender. Such notification, in the original Tender or later, shall not relieve the Supplier from any liability or obligation under the Contract.  |
|   | 21.2 | Subcontracts must comply with the provisions of GCC Clause 3.   |
| <b>22. Delays in the Supplier's Performance</b> | 22.1 | Delivery of the goods and performance of services shall be made by the Supplier in accordance with the time schedule specified by the Purchaser in the Schedule of Requirements.  |
|   | 22.2 | Except as provided under GCC clause 25, an unexcused delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to any or all of the following sanctions: forfeiture of its performance security, imposition of liquidated damages, and/or termination of the Contract for default.  |
|   | 22.3 | If at any time during performance of the Contract, the Supplier or its sub-supplier(s) should encounter conditions impeding timely delivery of the goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may, at its discretion, extend the Supplier's time for performance, with or without liquidated damages, in which case, the extension shall be ratified by the parties by amendment of the Contract. |

- 23. Liquidated Damages**
- 23.1 Subject to GCC Clause 25, if the Supplier fails to deliver any or all of the goods or to perform within the time period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to (0.5%) of the contract price of the delayed goods for each week of delay until actual delivery, up to a maximum deduction of (10%) percent of the delayed goods Contract Price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 24.
- 24. Termination for Default**
- 24.1 The Purchaser may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate the Contract in whole or in part:
- a. if the Supplier fails to deliver any or all of the goods within the time period(s) specified in the Contract, or any extension thereof granted by the Purchaser pursuant to GCC Clause 22; or
  - b. if the Supplier fails to perform any other obligation(s) under the Contract.
- 24.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC para. 24.1 and 24.3 below, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, goods or services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar goods or services. However, the Supplier shall continue performance of the Contract to the extent not terminated.
- 24.3 Termination for Corrupt or Fraudulent Practices
- The Purchaser may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, terminate the Contract in whole or in part if the Supplier, in the judgement of the Purchaser has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

For the purpose of this clause:

“corrupt practice” means the offering, giving,

receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution; and

“fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract, and includes collusive practice among Tenders (prior to or after Tender submission) designed to establish Tender prices at artificial non-competitive levels and to deprive the benefits of free and open competition;

- 25. Force Majeure**
- 25.1 For purposes of this Contract, “Force Majeure” means an event beyond the control of the parties to the Contract and not involving either party’s fault or negligence and not foreseeable.
- 25.2 If, at any time during the existence of the Contract, either party is unable to perform in whole or part any obligation under this Contract because of such events which include, but are not restricted to, acts of God, acts of Government in its sovereign capacity, war, revolutions, hostility, civil commotions, strikes, fires, floods, epidemics, quarantine restrictions, freight embargoes, explosions, then the date of fulfillment of Contract shall be postponed during the period when such circumstances are operative.
- 25.3 The party which is unable to perform its obligations under the present Contract shall, within fourteen (14) days of occurrence of the Force Majeure event, inform the other party with suitable documentary evidence. Non-availability of raw materials from regular sources shall not be an excuse for the Supplier for not performing its obligations under this clause.
- 25.4 Any waiver/extension of time in respect of the delivery/acceptance of any instalment or part of the goods shall not be deemed to be a waiver/extension of time in respect of the remaining deliveries.
- 25.5 If such inability to perform continues for a period of more than three (3) months, each party shall have the right to be released from further performance of the Contract, in which case, neither party shall have the right to claim damages from the other. All prior performance shall be subject to Contract

terms.

- 25.6 Notwithstanding the provisions of GCC Clauses 22, 23, and 24, 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 Force Majeure.
- 25.7 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.
- 26. Termination for Insolvency** 26.1 The Purchaser may at any time terminate the Contract by giving written notice to the Supplier, without compensation to the Supplier, if the Supplier becomes bankrupt or otherwise insolvent, provided that such termination will not prejudice or affect any right of action or remedy which has accrued or will accrue thereafter to the Purchaser.
- 27. Termination for Convenience** 27.1 The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- 27.2 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:
- a. to have any portion completed and delivered at the Contract terms and prices; and/or
  - b. to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Suppliers.

- 28. Resolution of Disputes**
- 28.1 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.
- 28.2 If, after twenty eight (28) days from the commencement of such informal negotiations, the Purchaser and the Supplier have been unable to resolve amicably a Contract dispute, either party may require that the dispute be referred for resolution to the formal mechanisms specified in the Special Conditions of Contract. These mechanisms may include, but are not restricted to, conciliation mediated by a third party, adjudication in an agreed national or international forum, and/or national and international arbitration.
- 29. Governing Language**
- 29.1 The Contract shall be written in the language as specified in SCC. Subject to GCC Clause 30, the version of the Contract written in English language shall govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in the English language.
- 30. Applicable Law**
- 30.1 The Contract shall be interpreted in accordance with the laws of Ghana unless otherwise specified in the Special Conditions of Contract.
- 31. Notices**
- 31.1 Any notice given by one party to the other pursuant to the Contract shall be sent to the other party in writing or by facsimile and confirmed in writing to the other party's address specified for that purpose in the Special Conditions of Contract.
- 31.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
- 32. Taxes and Duties**
- 32.1 A Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the final destination.

## Section IV. Special Conditions of Contract

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in General Conditions of Contract. The corresponding clause number in the General Conditions is indicated in parentheses. Where sample provisions are furnished, they are only illustrative of the provisions that the Purchaser should draft specifically for each procurement.

- |   |     |   |
|---|-----|---|
| <b>1. Definitions<br/>(GCC Clause 1)</b>          | 1.1 | <p>a. The Purchaser is: .....</p> <p>.....</p> <p style="text-align: center;"><i>[Name and Address of Purchaser]</i></p> <p>b. The Supplier is:.....</p> <p>.....</p> <p style="text-align: center;"><i>[Name and Address of Supplier]</i></p> <p>c. The Delivery site is: .....</p> <p>.....</p> <p style="text-align: center;"><i>[Insert name and address of delivery site if applicable]</i></p>  |
| <b>2. Country of Origin<br/>(GCC Clause 3)</b>    | 2.1 | <p>Any country of the World.</p> <p><i>[Otherwise specify restrictions as applicable]</i></p>   |
| <b>3. Performance Security<br/>(GCC Clause 7)</b> | 3.1 | <p>The performance security will be as follows:</p> <p>i. The amount of performance security as a percentage of the contract price, shall be ___ percent of the Tender Price in the currency of the Tender price.</p> <p><i>[Five (5) to ten (10) percent of the Contract Price would be reasonable; it should not exceed ten (10) percent in any case. The following provisions should be used in the case of Goods having warranty obligation.]</i></p>   |
|   | 3.2 | <p>The validity of Performance Security shall be one (1) year after the final installation and commissioning of the Goods and the issue of final acceptance certificate to the Suppliers. After delivery and acceptance of the Goods, the performance security shall be reduced to two (2) percent of the Contract Price to cover the Supplier's Warranty obligations in accordance with Clause GCC 15.2. The supplier shall promptly extend the validity suitably to cover agreed extension of the</p> |

warranty period of the supplied goods.

**4. Inspection and Tests  
(GCC Clause 8)**

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

- a. The time limit for inspection and tests and the issuance of Certificate of acceptance and/or rejection should be no later than..... days of the completion of inspection and tests.

*[Specify the time limit for inspection and tests and the issuance of Certificate of acceptance and/or rejection in no later than 28-56 days [as applicable] of the completion of inspection and tests.]*

- b. ....

*[Specify such other criteria for inspection and tests, if necessary]*

**5. Packing  
(GCC Clause 9)**

5.1 Additional requirement for packing and marking as per GCC Clause 9.2 are as follows:

- a. ....

- b. ....

- c. ....

- d. ....

- e. ....

*[Specify additional requirements for packing, marking and so on, if necessary.]*

**6. Delivery and Documents  
(GCC Clause 10)**

6.1 For Goods Supplied from abroad:

- a. Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by facsimile the full details of the shipment, including contract number, description of Goods, quantity, the vessel, (or the flight number), the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:

- i. Copies of the Supplier's invoice showing Good's

description, quantity, unit price and total amount;

- ii. Original and *[insert number as required]* copies of the negotiable, clean on board, bill of lading (Consignment note) marked “freight prepaid” and *[insert number as required]* copies of non-negotiable bill of lading (Consignment note);
- iii. Copies of the packing list identifying contents of each package;
- iv. Insurance Certificate;
- v. Manufacturer’s or Supplier’s Warranty Certificate;
- vi. Inspection Certificate, issued by the nominated inspection agency, and the supplier’s factory inspection report; and
- vii. Certificate of origin, certified/verified by the manufacturing company in case of Goods manufactured locally.

*[Other similar documents should be listed, depending upon the Incoterm retained or irrelevant document can be deleted.]*

- 6.2 The documents as per clause 6.1 shall be received by the Purchaser at least one week before arrival of Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.
- 6.3 For Goods within Nepal: Upon delivery of the goods to the transporter, the Supplier shall notify the Purchaser and mail the following documents to the Purchaser:
  - i. Copies of the Supplier’s invoice showing Goods’ description, quantity, unit price and total amount;
  - ii. Delivery note, transport receipt, railway receipt;
  - iii. Manufacturer’s or Supplier’s Warranty Certificate;
  - iv. Inspection Certificate issued by the nominated inspection agency, and the Supplier’s factory inspection report; and
  - v. Certificate of origin.

- 6.4 The documents as per sub-clause 6.3 shall be received by the Purchaser before arrival of the goods and, if not received, the Supplier will be responsible for any consequent expenses.
- 7. Insurance (GCC Clause 11)** 7.1 The insurance shall be in an amount equal to 110 percent of the CIP value of the Goods from “Warehouse” to “Warehouse” on “All Risks” basis, including War Risks and Strikes.
- 8. Incidental Services (GCC Clause 13)** 8.1 Incidental services to be provided are:
- i. Installation and commissioning of equipment;
  - ii. Operational and maintenance training of equipment.
  - iii. ....[insert any other additional requirement].  
*[Selected services covered under GCC Clause 13 and/or other should be specified with the desired features. The price quoted in the Tender price or agreed with the selected Supplier shall be included in the Contract Price. If no incidental services are required state “not applicable”]*
- 9. Spare Parts (GCC Clause 14)** 9.1 Additional spare parts requirements are:
- a. Supplier shall carry sufficient inventories to assure exstock supply of consumable spare parts for the Goods;
  - b. Other spare parts and components shall be supplied as promptly as possible, but in any case within six (6) months of placing the order and opening the letter of credit.
  - c. .... *[specify other additional requirements.]*
- 10. Warranty (GCC Clause 15)** 10.1 In partial modification of the provisions, the warranty period shall be ..... hour *[as applicable and if necessary]* of operation or 12-36 *[as applicable]* months from date of acceptance of the Goods or 12-36 *[as applicable]* months from the date of delivery, whichever occurs earlier ..... *[Insert appropriate hrs/mths as per Technical Specification or Schedule of Requirements or as per the nature of the Goods]*. The Supplier shall, in addition, comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:

a. make such changes, modification, and/or additions to the Goods or any part thereof as may be necessary in order to attain the contractual guarantees specified in the contract at its own cost and expense and to carry out further performance tests in accordance with SCC 4.1 or

b. Pay liquidated damages to the Purchaser with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be (0.1 to 0.5%) per week. *[The rate should be higher than the adjustment rate used in the Tender evaluation under ITT 28.5 (f) or (g).]*

10.2 The period for correction of defects in the warranty period is: 50% time of the delivery schedule of the particular goods.

10.3 ..... *[specify other suitable conditions for warranty, if necessary].*

## **11. Payment (GCC Clause 16)**

11.1 Payment for Goods and Services supplied shall be made in Ghanaian Cedis, as follows;

- i. Advance Payment: Forty (40) percent of the Contract Price shall be paid within twenty eight (28) days of signing of the Contract against a simple receipt and a bank guarantee for the equivalent amount and in the form provided in the Tender documents or another form acceptable to the Purchaser.
- ii. On Delivery: Forty (40) percent of the Contract Price shall be paid on receipt of the Goods and upon submission of the documents specified in GCC Clause 10.
- iii. On Acceptance: The remaining twenty (20) percent of the Contract Price shall be paid to the Contractor within twenty eight (28) after the date of the acceptance certificate for the respective delivery issued by the Purchaser.

## **12. Prices (GCC Clause 17)**

12.1 Tender Prices may be adjusted only in the case of Tender validity extension requested by the Purchaser. *[To be inserted only if price is subject to adjustment under GCC Clause 17.1)*

12.2 Purchaser shall not entertain Contract Price variation due to the

effect of any notice of notification of exchange rate variation of any convertible currency.

**13. Liquidated Damages  
(GCC Clause 23)**

13.1 Applicable rate for the Liquidated damages is : 0.1% to 0.5% per day.  
*[Applicable as per the nature of the Goods. Applicable rate shall not exceed one-half (0.5) percent per day, and the maximum shall not exceed ten (10) percent of the delayed good's Contract Price.]*

**14. Resolution of Disputes  
(GCC Clause 28)**

14.1 The dispute resolution mechanism to be applied pursuant to clause 28.2 of the General Conditions of Contract shall be as follow:

- a. in the case of a dispute between the Purchaser and a Supplier which is a national of Ghana, the dispute shall be referred to adjudication/arbitration; and
- b. in the case of 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.

**15. Governing Language  
(GCC Clause 29)**

15.1 The governing Language shall be English.

**16. Notices  
(GCC Clause 31)**

16.1 For the notice purposes Purchaser and Supplier's address shall be as follows:

Purchaser's address for notice purposes:  
.....  
.....  
.....

Supplier's address for notice purposes:  
.....  
.....  
.....

## Section V. Schedule of Requirements

### *Notes for Preparing the Schedule of Requirements*

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

*The objective of the Schedule of Requirements is to provide sufficient information to enable Tenderers to prepare their Tenders efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section VII. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract.*

*The date or period for delivery should be carefully specified, taking into account (a) the implications of delivery terms stipulated in the Instructions to Tenderers pursuant to the Incoterms rules (i.e., EXW, or CIF, CIP, FOB, FCA terms—that “delivery” takes place when goods are delivered **to the carriers**), and (b) the date prescribed herein from which the Purchaser’s delivery obligations start (i.e., notice of award, contract signature, opening or confirmation of the letter of credit).*

### Schedule of Requirements

The delivery schedule expressed as weeks/months stipulates hereafter a delivery date which is the date of delivery (i) at EXW premises, or (ii) to the carrier at the port of shipment or port of destination when the contract is placed on CIF or FOB terms, or (iii) to the first carrier when the contract is placed on CIP or FCA terms. In order to determine the correct date of delivery hereafter specified, the Purchaser has taken into account the additional time that will be needed for international or national transit to the Project Site or to another common place.<sup>8</sup>

Number	Description	Quantity	Delivery schedule (shipment) days/weeks/months from _____ [yy/mm/dd] <sup>9</sup>
--------	-------------	----------	--

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<sup>8</sup> *The delivery may be specified for a single shipment, or for several partial shipments, for a specific date, or range of acceptable delivery periods.*

<sup>9</sup> *The Purchaser must specify here the date from which the delivery schedule will start. That date should be either the date of contract award, or the date of contract signature, or the date of opening of Letter of Credit, or the date of confirmation of the Letter of Credit, as appropriate. The Tender Form should include only a cross-reference to this Schedule.*

## **Section VI. Technical Specification**

### ***Notes for Preparing the Technical Specification***

*A set of precise and clear Specification is a prerequisite for Tenderers to respond realistically and competitively to the requirements of the Purchaser without qualifying their Tenders. In the context of National Competitive Tender (NCT), the Specification must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realised, responsiveness of Tenders be ensured, and the subsequent task of Tender evaluation facilitated. The Specification should require that all goods and materials to be incorporated in the goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided for otherwise in the contract.*

*Samples of Specification from previous similar procurements in the country are useful in this respect. The use of metric units is encouraged. Depending on the complexity of the goods and the repetitiveness of the type of procurement, it may be advantageous to standardise the General Technical Specification and incorporate them in a separate subsection. The General Technical Specification should cover all classes of workmanship, materials, and equipment commonly involved in manufacturing similar goods, although not necessarily to be used in a particular procurement. Deletions or addenda should then adapt the General Technical Specification to the particular procurement.*

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

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

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

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

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

**Technical Specification**

*[Text of Technical Specification to be inserted in the tender documents by the Purchaser, as applicable]*

## Section VII. Sample Forms

### *Notes on the Sample Forms*

*The Tenderer shall complete and submit with its tender the **Tender Form and Price Schedules** pursuant to ITT Clause 10 and in accordance with the requirements included in the tender documents.*

*When requested in the Invitation for Tenders, the Tenderer should provide the **Tender Security**, either in the form included hereafter or in another form acceptable to the Purchaser, pursuant to ITT Clause 16.2.*

*The **Contract Form**, when it is finalised at the time of contract award, should incorporate any corrections or modifications to the accepted Tender resulting from price corrections, acceptable deviations, spare parts or quantity variations. The Price Schedule and Schedule of Requirements deemed to form part of the contract should be modified accordingly.*

*The **Performance Security Form and Bank Guarantee Form for Advance Payment** should not be completed by the Tenderers at the time of their tender preparation. Only the successful Tenderer will be required to provide performance security and bank guarantee for advance payment in accordance with one of the forms indicated herein or in another form acceptable to the Purchaser.*

*The **Manufacturer's Authorization** form should be completed by the Manufacturer, as appropriate.*

## 1. Tender Form and Price Schedules

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

IFT No: \_\_\_\_\_

To: *[name and address of Purchaser]*

Gentlemen and/or Ladies:

Having examined the Tender documents including Addenda Nos. *[insert numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver *[description of goods and services]* in conformity with the said Tender documents for the sum of GHC \_\_\_\_\_ *[total Tender amount in words and figures]* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

We undertake, if our Tender is accepted, to deliver the goods and services in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Tender is accepted, we will provide a Bank Guarantee acceptable to the Purchaser in a sum equivalent to \_\_\_\_\_ percent of the Contract Price for the due performance of the Contract, in the form prescribed by the Purchaser.

We agree to abide by this Tender for a period of ..... *[insert number as specified in Tender validity period]* days from the date fixed for Deadline for Tender submission, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Commissions or gratuities, if any, paid or to be paid by us to agents relating to this Tender, and to contract execution if we are awarded the contract, are listed below:

Name and address of agent	Amount and Currency	Purpose of Commission or gratuity
---------------------------	---------------------	-----------------------------------

_____	_____	_____
_____	_____	_____
_____	_____	_____

(if none, state "none")

Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any Tender you may receive.

We certify/confirm that we comply with the eligibility requirements as per ITT Clause 2 of the Tender documents.

*Dated this \_\_\_\_\_ [dd] day of \_\_\_\_\_ [mm] month of 20 \_\_\_\_\_ [yy].*

\_\_\_\_\_  
*[signature]*

\_\_\_\_\_  
*[in the capacity of]*

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

### Price Schedule

Name of Tenderer \_\_\_\_\_ IFT Number \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

S.No	Description	Country of origin	Quantity	Unit Price EXW (specify place)	Total Price EXW	Total Price of Inland delivery to final destination	Total CIP site	Incidental Services and others	Total Tender Price	Remarks
1	2	3	4	In figure 5	6=(4x5)	7	8=(6+7)	9	10=(8+9)	11
<b>Grand Total</b>										

Total Tender Price (in words) .....

Signature of Tenderer: \_\_\_\_\_

*Note: 1. In case of discrepancy between unit price and total, the unit price shall prevail.*

*2. Tenderer must have to accept the correction of arithmetic error pursuant to ITT Clause 26.2*

## 2. Tender Security Form

Date:

*To [name and address of Purchaser]*

Whereas *[name of the Tenderer]* (hereinafter called “the Tenderer”) has submitted its Tender dated *[date of submission of Tender]* for the supply of *[name and/or description of the goods and services]* (hereinafter called “the Tender”).

KNOW ALL PEOPLE by these presents that We *[name of bank/insurance/bonding institutions]* of *[name of country]*, having our registered office at *[address of bank]* (hereinafter called “the Bank/insurance company/bonding company”), are bound unto *[name of Purchaser]* The Government of Ghana (hereinafter called “the Purchaser”) in the sum of *[amount]* for which payment well and truly to be made to the said Purchaser, the Bank/Insurance Company/Bonding Company binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank/Insurance Company/Bonding Company this \_\_\_\_ day of \_\_\_\_\_ *[mm]* 20 \_\_\_\_.

THE CONDITIONS of this obligation are:

1. If the Tenderer
  - (a) withdraws its Tender during the period of Tender validity specified by the Tenderer on the Tender Form; or
  - (b) does not accept the correction of errors in accordance with the Instructions to Tenderers; or
  
2. If the Tenderer, having been notified of the acceptance of its Tender by the Purchaser during the period of Tender validity:
  - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Tenderers, if required; or
  - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by him is due to him, owing to the occurrence of any of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including twenty eight (28) days after the period of Tender validity or as it may be extended by the Purchaser, notice of which extension(s) to the Bank/Insurance Company/Bonding Company is hereby waved.

And any demand in respect thereof should reach the Bank/Insurance Company/Bonding Company not later than the above date.

---

*[signature of the bank/insurance company/bonding company]*

Seal of the issuing Bank/Insurance Company/Bonding Company:

Witness :

Signature:

Name :

Address :

### 3. Qualification Information

***Notes on Form of qualification Information***

*The information to be filled in by Tenderers in the following pages will be used for the purpose of post-qualification. This information will not be incorporated in the Contract. Please attach additional pages, if necessary.*

#### 1. For Individual Tenderers or Individual Members of Joint Ventures.

1.1 Constitution or legal status of Tenderer *[attach copy]*

Place of registration : .....

Principal place of business : .....

Power of attorney of signatory of Tenderer : *[attach original]*

1.2 Total annual volume of supplies made in the last two years, in GHC:

19xx/20xx .....

20xx/20xx .....

20xx/20xx .....

20xx/20xx .....

1.3 Supplies performed as prime Supplier on works of similar nature and volume over the last two years. The value should be indicated in the same currency used for Item 1.2 above. Also list details of supplies under way or committed, including expected completion date.

Procurement ID No.	Name of Purchaser	Type of goods	Agreement date	Delivery completion	Value of

1.4 Financial reports for the last two years : balance sheet, profit and loss statements, auditors’ reports, etc. List them below and attach copies.

.....  
.....  
.....  
.....

1.5 Names, addresses and telephone, telex, facsimile numbers and email addresses of banks that may provide references if contacted by the Purchaser.

.....  
.....  
.....  
.....

1.6 Information on current litigation in which the Tenderer is involved.

Other party(ies)	Cause of dispute	Amount involved

2. Additional Requirements

2.1 Tenderers should provide any additional information required in the Tender Data Sheet.

.....  
.....  
.....  
.....  
.....

#### 4. Notification of Award

*[This letter should be in the form of letterhead paper of the Purchaser]*

.....*[Date]*

To: ..... *[name of the Supplier]*

..... *[address of the Supplier]*

**Subject : Notification of Award**

This is to notify you that your Tender dated ..... for execution of the contract of ..... *[name and identification number of the Tender]* in the amount..... *[amount in words]*, as corrected in accordance with the Instructions to Tenderers is hereby accepted.

This Notification of Award will constitute the formation of Contract. However, until and unless you furnish the Performance Security of GHC. .... *[amount of Performance Security in figures, i.e. 5% - 10% of the Successful Tenderer's Tender Price]* and send it to us within fourteen (14) days of the receipt of this Notification of Award the Contract shall not be deemed as active. You are hereby instructed to proceed with the fulfilment of performance Security and Signing of Contract within fourteen (14) days of receipt of this letter. Failure to comply with the fulfilment of Performance Security and Signing of Contract within the time will constitute the failure of formation of contract and forfeiture of Tender Security. If you so required you may proceed with the processing of the Bank guarantee for the advance payment

You are hereby instructed to proceed with the necessary action for the execution of the said Procurement in accordance with the Tender and Contract documents.

Authorised Signature : .....

Name and Title of Signatory : .....

Name of Agency : .....

Address for correspondence : .....

## 5. Contract Form

THIS AGREEMENT made the \_\_\_\_\_ day of \_\_\_\_\_ [mm] 20\_\_\_\_ between [name of Purchaser] of [country of Purchaser] (hereinafter called “the Purchaser”) of the one part and [name of Supplier] of [city and country of Supplier] (hereinafter called “the Supplier”) of the other part:

WHEREAS the Purchaser invited Tenders for certain goods and ancillary services, viz., [brief description of goods and services] and has accepted a Tender by the Supplier for the supply of those goods and services in the sum of [contract price in words and figures in Cedis] (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 be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Tender Form and the Price Schedule submitted by the Tenderer;
  - (b) the Schedule of Requirements;
  - (c) the Technical Specifications;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract;
  - (f) the Purchaser’s Notification of Award; and
  - (g) Contract Data Sheet (*to be used only when there are corrections to the original price schedule submitted by the supplier*).
3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

**On behalf of the Purchaser**

Name:

Signature:

Designation:

Seal:

Date:

**Witnessed By:**

Name:

Signature:

Designation:

Date:

**On behalf of the Supplier**

Name:

Signature:

Designation:

Seal:

Date:

**Witnessed by:**

Name:

Signature:

Designation:

Date:

**6. Manufacturer's Authorization Form**

Date:

To: *[name of the Purchaser]*

WHEREAS *[name of the Manufacturer]* who are established and reputable manufacturers of *[name and/or description of the goods]* having factories at *[address of factory]*

I hereby authorise *[name and address of Agent]* to submit a Tender, and subsequently negotiate and sign the Contract with you against IFT No. *[reference of the Invitation to Tender]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per Clause 15 of the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

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*[signature for and on behalf of Manufacturer]*

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent and having the power of attorney to bind the Manufacturer. It should be included by the Tenderer in its Tender.

## 7. Performance Security Form

Date:

To: [name of Purchaser]

[address of Purchaser]

WHEREAS [*name and address of Supplier*] (hereinafter called “the Supplier”) has undertaken, in pursuance of Contract No. [*reference number of the contract*] dated \_\_\_\_\_ [*yy/mm/dd*] to supply [*description of goods and services*] (hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Supplier’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Supplier such a Bank guarantee:

NOW THEREFORE we hereby affirm that we are the Guarantors and responsible to you, on behalf of the Supplier, up to a total of [amount of the guarantee in words and figures Ghanaian Cedis], and we undertake to pay you, upon your first written demand such sum being payable in the types and proportions of currencies in which the contract price is payable, and without cavil or argument, any sum or sums within the limits of [*amount of guarantee in Ghana Cedis*] as aforesaid, without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of demanding the said debt from the Supplier before presenting us with the demand.

We further agree that no change or addition to or other modification of the terms of the Contract or of the Goods to be supplied thereunder or of any of the Contract documents which may be made between you and the Supplier shall in any way release us from liability under this Guarantee, and we hereby waive notice of any such change, addition or modification.

This Guarantee is valid until a date 28 day from the date of issue of the Certificate of Acceptance.

Signature and seal of the Guarantors

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[name of bank]

---

[address]

---

[date]

### Bank Guarantee Form for Advance Payment

Date:

To: [name of Purchaser]

[address of Purchaser]

[name of Contract]

Gentlemen and/or Ladies;

In accordance with the payment provision included in the Special Conditions of Contract, to provide for advance payment, *[name and address of Supplier]* (hereinafter called “the Supplier”) shall deposit with *[name of the Purchaser]*, The Government of Ghana (hereinafter called “the Purchaser”) a bank guarantee to guarantee his proper and faithful performance under the said Clause of the Contract in an amount of *[amount of guarantee in figures and words in Ghanaian Cedis]*.

We, the *[name of the bank]*, as instructed by the Supplier, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Purchaser on his first demand without whatsoever right of objection on our part and without his first claim to the Supplier, in the amount not exceeding *[amount of guarantee in figures and words in Ghanaian Cedis]*.

We further agree that no change or addition to or other modification of the terms of the supply of Goods to be performed thereunder or of any of the Contract documents which may be made between the Purchaser and the Supplier, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until the Purchaser receives full repayment of the same amount from the Supplier.

Yours truly,

Signature and seal of the Bank

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[name of Bank]

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[address]

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[date]