

BIDDING DOCUMENTS

Issued on: July 2008

for

***Procurement of
Cotton Seed Cake for the
Manufacture of Animal Feed***

OAB No: CPB/102/2008

Purchaser: Ministry of Agro Industry & Fisheries

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PART 1 – Bidding Procedures

Section I. Instructions to Bidders

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Section I. Instructions to Bidders

General

- Scope of Bid**
- 1.1 The Purchaser indicated in the Bidding Data Sheet (BDS), issues these Bidding Documents for the supply of Goods and Related Services incidental thereto as specified in Section V, Schedule of Requirements. The name and identification number of this Open Advertised Bidding procurement are specified in the BDS. The name, identification, and number of lots are provided in the BDS.
- 1.2 Throughout these Bidding Documents:
- (a) the term “in writing” means communicated in written form (e.g. by mail, e-mail, fax, telex) with proof of receipt;
 - (b) if the context so requires, “singular” means “plural” and vice versa; and
 - (c) “day” means calendar day.
- Public Entities Related to Bidding Documents and to Challenge and Appeal**
- 2.1 The public entities related to these bidding documents are the Public Body, acting as procurement entity, the Procurement Policy Office, in charge of issuing standard bidding documents and responsible for any amendment these may require, and the Independent Review Panel, set up under section 45 of the Public Procurement Act 2006 (hereinafter referred to as the Act.)
- 2.2 Sections 43, 44 and 45 of the Act provide for challenge and review mechanism. Unsatisfied bidders shall follow procedures prescribed in Regulations 48, 49 and 50 of the Public Procurement Regulations 2008 to challenge procurement proceedings and award of procurement contracts or to file application for review at the Independent Review Panel.
- Fraud and Corruption**
- 3 The Government of the Republic of Mauritius requires that bidders/suppliers/contractors, participating in procurement in Mauritius, observe the highest standard of ethics during the procurement process and execution of contracts.

Government officials and bidders/suppliers/contractors shall conform to the standards of conduct set forth in sections 51 and 52 of the Public Procurement Act, which provide as follows:

Section 51. Conduct of Public Officials

- (1) A public official involved in planning or conducting public procurement proceedings or contract administration, shall:
 - (a) discharge official's duties impartially so as to ensure fair competitive access to procurement by suppliers;
 - (b) act in the public interest, and in accordance with the objectives and procedures set out in this Act;
 - (c) avoid conflicts of interest, and the appearance of conflict of interest, in carrying out his duties and conducting official;
 - (d) not commit or abet any corrupt or fraudulent practice, including solicitation or acceptance of improper inducements;
 - (e) keep confidential any information that comes into official's possession relating to procurement proceedings and to bids, including bidders' proprietary information;
 - (f) for a period of 2 years after leaving the public service not accept a position of authority in any private concern with which official had official dealings; and
 - (g) declare official's assets in such a manner as may be prescribed.
- (2)
 - (a) No public official, or his close relative, shall participate as a bidder in procurement proceedings of that public body and no award of a procurement contract shall be made directly to such official or to any body in which he or his close relative, is employed in a management capacity or has a substantial financial interest.
 - (b) In the subsection, "close relative" includes spouse, child, grandchild or parent.

Section 52. Conduct of bidders and suppliers

- (1) A bidder or a supplier shall not engage in or abet any corrupt or fraudulent practice, including the offering or giving,

directly or indirectly, of improper inducements, in order to influence a procurement process or the execution of a contract, including interference in the ability of competing bidders to participate in procurement proceedings.

- (2) A bidder or a supplier shall not engage in any coercive practice threatening to harm, directly or indirectly, any person or his property to influence his participation in a procurement process, or affect the execution of a contract.
- (3) A bidder shall not engage in collusion, before or after a bid submission, designed to allocate procurement contracts among bidders, establish bid prices at artificial non-competitive levels or otherwise deprive a public body of the benefit of free and open competition.
- (4) A public body shall reject a bid if the bidder offers, gives or agrees to give an inducement referred to in subsection (1) and promptly notify the rejection to the bidder concerned and to the Policy Office.
- (5) (a) Subject to paragraph (b), a bidder or supplier who is responsible for preparing the specifications or bidding documents for, or supervising the execution of a procurement contract, or a related company of such bidder or supplier, shall not participate in such bidding.
- (b) Paragraph (a) shall not apply to the several bodies (consultants, contractors or suppliers) that together may be performing the supplier's obligations under a turnkey or design-build contract."

3.2 Furthermore, bidders shall be aware of the provision stated in Clause 34.1 (a) (iii) of the General Conditions of Contract including, but not limited to, the provisions of Clause 3.1.

Eligible Bidders

- 4.1 A Bidder may be a natural person, private entity, government-owned entity—subject to ITB 4.6—or any combination of such entities supported by a letter of intent to enter into an agreement or under an existing agreement in the form of a joint venture or association (JVA). In the case of a joint venture or association:
 - (a) unless otherwise specified in the BDS, all partners shall be jointly and severally liable, and
 - (b) the JVA shall nominate a Representative who shall have the

authority to conduct all business for and on behalf of any and all the partners of the JVA during the bidding process and, in the event the JVA is awarded the Contract, during contract execution.

- 4.2 Public bodies may require the submission of signed statements from the bidders, certifying eligibility, in the absence of other documentary evidence establishing eligibility.

Eligibility requirements may concern:

- (a) business registration, for which evidence may include the certificate of company registration;
 - (b) tax status, for which documentation of tax registration and tax clearance are particularly relevant;
 - (c) certifications by the bidder of the absence of a debarment order and absence of conflict of interest; and
 - (d) certification of status regarding conviction for any offence involving fraud, corruption or dishonesty.
- 4.3 Bidders shall be allowed to participate in procurement proceedings without regard to their nationality, subject to section 17 of the Act.
- (a) With a view to facilitating participation by bidders, the public body shall accept the submission by bidders of equivalent documentation when particular documents required by the bidding documents are not available or issued, for example, in a foreign bidder's country of origin.
 - (b) Public bodies may also accept certifications from bidders attesting to compliance with eligibility requirements.
- 4.4 A Bidder shall not have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if they:
- (a) have controlling partners in common; or
 - (b) receive or have received any direct or indirect subsidy from any of them; or
 - (c) have the same legal representative for purposes of this bid; or

- (d) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder; or
- (e) Groups of bidders may submit bids or put themselves forward as candidates, either individually or as partner in a joint venture. However, a bidder may only submit or participate in one bid.

Participation by a Bidder in more than one Bid will result in the disqualification of all Bids in which the party is involved. However, this does not limit the inclusion of the same subcontractor in more than one bid; or

- (f) a Bidder participated as a consultant in the preparation of the design or technical specifications of the works that are the subject of the bid.

- 4.5 (1) While submitting any tender, a foreign individual, firm, company or institution, shall specify whether or not any agent has been appointed in Mauritius, and if so:
- (a) the name and address of the agent;
 - (b) the figure of the commission amount payable to the agent, type of currency and mode of payment;
 - (c) any other condition agreed with the agent; and income tax registration certificate of the local agent and acceptance letter of the agent.
- (2) If a bid submitted stated that there is no local agent, and if it is proved thereafter that there exists an agent or if a tender has stated an amount for a commission and it is proven that there exists a higher amount for that commission, action shall be taken against him for suspension and debarment in accordance with section 53 of the Act.

4.6 A firm that is under a declaration of ineligibility by the Government of Mauritius in accordance with applicable laws, as well as ITB 3, at the date of the deadline for bid submission or thereafter, shall be disqualified.

4.7 Government-owned enterprises in the Government's country shall be eligible only if they can establish that they are legally and financially autonomous and operate under the commercial laws of Mauritius. Also, they shall not be dependent agencies of the

- Government.
- 4.8 Bidders shall provide such evidence of their continued eligibility satisfactory to the Public Body, as the Public Body shall reasonably request.
- 4.9 Firms shall be excluded if by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, Mauritius prohibits any import of goods or contracting of Works or services from that country or any payments to persons or entities in that country.

Contents of Bidding Documents

- Sections of Bidding Documents** 5.1 *The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any Addendum issued in accordance with ITB Clause 8.*

PART 1: Bidding Procedures

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

PART 2: Supply Requirements

- *Section V. Schedule of Requirements*

PART 3: Contract

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

- 5.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Documents.
- 5.3 The Purchaser is not responsible for the completeness of the Bidding Documents and their addendum, if they were not obtained directly from the Purchaser.
- 5.4 The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Documents. Failure to furnish all information or documentation required by the Bidding Documents may result in the rejection of the bid.

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| Clarification of Bidding Documents | 6 | A prospective Bidder requiring any clarification of the Bidding Documents shall contact the Purchaser in writing at the Purchaser's address specified in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than twenty-one (21) days prior to the deadline for submission of bids. The Purchaser shall forward copies of its response to all those who have acquired the Bidding Documents directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Documents as a result of a clarification, it shall do so following the procedure under ITB Clause 7 and ITB Sub-Clause 23.2. |
| Amendment of Bidding Documents | 7 | At any time prior to the deadline for submission of bids, the Purchaser may amend the Bidding Documents by issuing addendum. Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Purchaser. To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of bids, pursuant to ITB Sub-Clause 23.2 |

Preparation of Bids

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| Cost of the Bidding Documents and Cost of Bidding | 8 | Bidders shall bear all costs associated with the preparation and submission of their bids, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| Language of Bid | 9.1 | All bidding documents or bids or proposals or contract documents shall be in "English" |
| | 9.2 | Any foreign language document other than in "English" submitted with a bid shall be accompanied by a certified or otherwise authorized translation into "English". In case of discrepancies between the foreign language version and the "English" version, the "English" version shall prevail. |
| | 9.3 | The Bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written |

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

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| Documents Comprising the Bid | 10.1 | <p>The Bid shall comprise the following:</p> <ul style="list-style-type: none"> (a) Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 11, 13, and 14; (b) Bid Security, in accordance with ITB Clause 20, if required; (c) Written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 21; (d) Documentary evidence in accordance with ITB Clause 15 establishing the Bidder's eligibility to bid; (e) Documentary evidence in accordance with ITB Clauses 17 and 29, that the Goods and Related Services conform to the Bidding Documents; (f) Documentary evidence in accordance with ITB Clause 18 establishing the Bidder's qualifications to perform the contract if its bid is accepted; and (g) Any other document required in the BDS. |
| Bid Submission Form and Price Schedules | 11.1 | The Bidder shall submit the Bid Submission Form using the form furnished in Section IV, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested. |
| | 11.2 | The Bidder shall submit the Price Schedules for Goods and Related Services, according to their origin as appropriate, using the forms furnished in Section IV, Bidding Forms. |
| Alternative Bids | 12 | Unless otherwise specified in the BDS, alternative bids shall not be considered. |
| Bid Prices and | 13.1 | The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price Schedules shall conform to the |

Discounts

- requirements specified below.
- 13.2 All lots and items must be listed and priced separately in the Price Schedules.
- 13.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discounts offered.
- 13.4 The Bidder shall quote any unconditional discounts and indicate the method for their application in the Bid Submission Form.
- 13.5 The terms EXW, CIP, and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the BDS.
- 13.6 Prices shall be quoted as specified in each Price Schedule included in Section IV, Bidding Forms. The dis-aggregation of price components is required solely for the purpose of facilitating the comparison of bids by the Purchaser. This shall not in any way limit the Purchaser's right to contract on any of the terms offered. In quoting prices, the Bidder shall be free to use transportation through carriers registered in any eligible country. The Bidder must obtain insurance from companies qualified to do business in Mauritius and otherwise approved by the Purchaser.
- (a) For Goods manufactured in Mauritius:
- (i) the price of the Goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties, value added tax (VAT) and other taxes already paid or payable on the components and raw materials used in the manufacture or assembly of the Goods;
 - (ii) any VAT and other taxes imposed by Mauritius which will be payable on the Goods if the Contract is awarded to the Bidder; and
 - (iii) the price for inland transportation, insurance, and other local services required to convey the Goods to their final destination (Project Site) specified in the BDS.
- (b) For Goods not manufactured in Mauritius and that are to be imported:
- (i) the price of the Goods, quoted CIP named place of destination, in Mauritius, or CIF named port of

- destination, as specified in the BDS;
- (ii) the price for inland transportation, insurance, and other local services required to convey the Goods from the named place of destination to their final destination (Project Site) specified in the BDS;
- (iii) in addition to the CIP prices specified in (b)(i) above, the price of the Goods to be imported may be quoted FCA (named place of destination) or CPT (named place of destination), if so specified in the BDS;
- (c) For Goods not manufactured in Mauritius but that have already been imported:

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

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

BDS.

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

(i) the price of each item comprising the Related Services (inclusive of any applicable taxes).

13.7 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to variation on any account, unless otherwise specified in the BDS. A Bid submitted with an adjustable price quotation shall be treated as non responsive and shall be rejected, pursuant to ITB Clause 29. However, if in accordance with the BDS, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

13.8 If so indicated in ITB Sub-Clause 1.1, bids are being invited for individual contracts (lots) or for any combination of contracts (packages). Unless otherwise indicated in the BDS, prices quoted shall correspond to 100 % of the items specified for each lot and to 100% of the quantities specified for each item of a lot. Bidders wishing to offer any price reduction (discount) for the award of more than one Contract shall specify the applicable price reduction in accordance with ITB Sub-Clause 13.4 provided the bids for all lots are submitted and opened at the same time.

Currencies of Bid

14.1 The Bidder shall quote in Mauritian Rupees the portion of the bid price that corresponds to expenditures incurred in Mauritian Rupees, unless otherwise specified in the BDS.

14.2 The Bidder may express the bid price in the currency of any country. If the Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but shall use no more than three currencies in addition to Rupees.

**Documents
Establishing the
Eligibility of the
Bidder**

15.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the Bid Submission Form, included in Section IV, Bidding Forms.

15.2 In the case of equipment and plant, the qualification requirements shall cover manufacturing record, technical competence, financial capability, competence of professionals

involved in erection etc as well as the proven trouble free operation of the product offered for a specific period, its maintainability, and service and spare parts availability.

- Documents**
Establishing the Eligibility of the Goods and Related Services
- 16 To establish the eligibility of the Goods and Related Services, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms. (Optional Clause)
- Documents**
Establishing the Conformity of the Goods and Related Services
- 17.1 To establish the conformity of the Goods and Related Services to the Bidding Documents, the Bidder shall furnish as part of its Bid the documentary evidence that the Goods conform to the technical specifications and standards specified in Section V, Schedule of Requirements.
- 17.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specifications, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of Requirements.
- 17.3 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period specified in the BDS, following commencement of the use of the goods by the Purchaser.
- 17.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Requirements, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Schedule of Requirements.
- 17.5 Evidence of the bidders' technical capability may be furnished by one or more of the following means according to the nature, quantity or importance, and use of the goods:
- (a) a list of the principal deliveries effected in the past three years, with the sums, dates and recipients, whether public or

private, involved;

- (b) where the goods to be supplied are complex or exceptional, and the bidder is not known, a check carried out by the public body or on its behalf by a qualified official body of the country in which the bidder is established on the production capacities of the supplier;
- (c) certificates drawn up by official quality control institutes or agencies of recognized competence attesting the conformity of the goods clearly identified by references to specifications or standards on the basis of inspection of the specified goods, such as:
 - (i) samples, descriptions and/or photographs, the authenticity of which must be certified if the public body so requests; and
 - (ii) an indication of the proportion of the contract which the bidder intends possibly to subcontract.

17.6 In procedures for awarding public contracts including supplies requiring installation work, the provision of services and/or the execution of works, the ability of bidders to provide the service or to execute the installation or the work may be evaluated in particular with regard to their skills, efficiency, experience and reliability.

I.

**Documents
Establishing the
Qualifications
of the Bidders**

- 18.1 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Purchaser's satisfaction that:
- (a) in the case of a bidder offering to supply goods under the contract which the bidder did not manufacture or otherwise produce, the bidder has been duly authorised by the goods' manufacturer or producer to supply and install the goods in Mauritius;
 - (b) in the case of a bidder not doing business within Mauritius, whether the bidder is, or will be (if the contract is awarded to it), represented by an agent in Mauritius equipped and able to carry out the maintenance, repair and spare parts stocking obligations prescribed in the contract and/or technical specifications; or whether he undertakes this service back-up from overseas on terms and conditions to be finalised; and

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

18.2 Technical specifications for the procurement of goods shall contain the following elements and descriptions of requirements, to the extent applicable in the procurement proceeding at hand:

- (1) listing of the goods to be procured, including the required performance characteristics, quantity, delivery times and incidental services (e.g., operating or descriptive manuals, training of public body's personnel, installation, supplier's on-site personnel required, after sale service;
- (2) required availability of spare parts and service during life of goods;
- (3) descriptive literature or samples to be provided with the bid;
- (4) description of any required performance or quality guarantee;
- (5) technical configurations;
- (6) inspection and quality testing to be conducted, including pre-shipment testing and inspection;
- (7) environmental impact and safety standards to be met by the goods; and
- (8) criteria and performance tests or inspections for final acceptance.

**Period of Validity
of Bids**

19.1 Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the Purchaser. A bid valid for a shorter period shall be rejected by the Purchaser as non responsive.

19.2 In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 20, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as

provided in ITB Sub-Clause 19.3.

- 19.3 In the case of fixed price contracts, if the award is delayed by a period exceeding fifty-six (56) days beyond the expiry of the initial bid validity, the Contract price shall be adjusted as specified in the request for extension. Bid evaluation shall be based on the Bid Price without taking into consideration the above correction.

Bid Security

- 20.1 The Bidder shall furnish as part of its bid, a Bid Security, if required, as specified in the BDS.
- 20.2 The Bid Security shall be in the amount specified in the BDS and denominated in Mauritian Rupees or in a freely convertible currency, and shall:
- (a) be in the form of a bank guarantee from a reputable bank;
 - (b) be substantially in accordance with the form of Bid Security included in Section IV, Bidding Forms, or other form approved by the Purchaser prior to bid submission;
 - (c) be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 20.5 are invoked;
 - (d) be submitted in its original form; copies will not be accepted;
 - (e) remain valid for a period of 30 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 19.2.
- 20.3 If a Bid Security is required in accordance with ITB Sub-Clause 20.1, any bid not accompanied by a substantially responsive Bid Security in accordance with ITB Sub-Clause 20.1, shall be rejected by the Purchaser as non-responsive.
- 20.4 The Bid Security of unsuccessful Bidders shall be returned as promptly as possible upon the successful Bidder's furnishing the Performance Security pursuant to ITB Clause 43.
- 20.5 The Bid Security may be forfeited:
- (a) if a Bidder modifies or withdraws its bid after the deadline for submission of bids and during the period of bid validity specified by the Bidder on the Bid Submission Form, except

as provided in ITB Sub-Clause 19.2; or

- (b) If the successful Bidder fails to:
 - (i) accept a correction of an error appearing on the face of the bid;
 - (ii) sign the Contract in accordance with ITB Clause 43; or
 - (iii) furnish a Performance Security in accordance with ITB Clause 43.

20.6 The Bid Security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the Bid Security shall be in the names of all future partners as named in the letter of intent mentioned in Section IV "Bidding Forms," Bidder Information Form Item 7.

**Format and
Signing of Bid**

21.1 The Bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 11 and clearly mark it "ORIGINAL." In addition, the Bidder shall submit copies of the bid, in the number specified in the BDS and clearly mark them "COPY." In the event of any discrepancy between the original and the copies, the original shall prevail.

21.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.

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

I.

Submission and Opening of Bids

**Submission, Sealing
and Marking of
Bids**

22.1 Bidders may always submit their bids by mail or by hand. When so specified in the BDS, bidders shall have the option of submitting their bids electronically.

- (a) Bidders submitting bids by mail or by hand, shall enclose the original and each copy of the Bid, including alternative bids, if permitted in accordance with ITB Clause 12, in separate sealed envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." These envelopes containing the original and the copies shall then be enclosed in one single envelope. The rest of the procedure shall be in

accordance with ITB sub-Clauses 22.2 and 22.3.

- (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the BDS.

22.2 The inner and outer envelopes shall:

- (a) bear the name and address of the Bidder;
- (b) be addressed to the Purchaser in accordance with ITB Sub-Clause 23.1;
- (c) bear the specific identification of this bidding process indicated in ITB 1.1 and any additional identification marks as specified in the BDS; and
- (d) bear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 26.1.

22.3 If all envelopes are not sealed and marked as required, the Purchaser will assume no responsibility for the misplacement or premature opening of the bid.

**Deadline for
Submission of
Bids**

23.1 Bids must be received by the Purchaser at the address and no later than the date and time specified in the BDS.

23.2 The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 7, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

Late Bids

24 The Purchaser shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 23. Any bid received by the Purchaser after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.

**Withdrawal,
Substitution,
and
Modification of
Bids**

25.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 22, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 21.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the bid must accompany the respective written

notice. All notices must be:

- (a) submitted in accordance with ITB Clauses 21 and 22 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked “Withdrawal,” “Substitution,” or “Modification;” and
- (b) received by the Purchaser prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 24.

- 25.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 25.1 shall be returned unopened to the Bidders.
- 25.3 No bid may be withdrawn, substituted, or modified in the interval between the deadline for submission of bids and the expiration of the period of bid validity specified by the Bidder on the Bid Submission Form or any extension thereof.

Bid Opening

- 26.1 The Purchaser shall conduct the bid opening in public at the address, date and time specified in the BDS. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-clause 22.1 shall be as specified in the BDS.
- 26.2 First, envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the Bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the Bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding Bid being substituted, and the substituted Bid shall not be opened, but returned to the Bidder. No Bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” shall be opened and read out with the corresponding Bid. No Bid modification shall be permitted unless the corresponding modification notice contains a valid authorization to request the modification and is read out at Bid opening. Only envelopes that are opened and read out at Bid opening shall be considered further.
- 26.3 All other envelopes shall be opened one at a time, reading out: the name of the Bidder and whether there is a modification; the Bid

Prices, including any discounts and alternative offers; the presence of a Bid Security or Bid-Securing Declaration, if required; and any other details as the Purchaser may consider appropriate. Only discounts and alternative offers read out at Bid opening shall be considered for evaluation. No Bid shall be rejected at Bid opening except for late bids, in accordance with ITB Sub-Clause 24.

- 26.4 The Purchaser shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidders and whether there is a withdrawal, substitution, or modification; the Bid Price, per lot if applicable, including any discounts, and alternative offers if they were permitted; and the presence or absence of a Bid Security, if one was required. The Bidders' representatives who are present shall be requested to sign the attendance sheet. A copy of the record shall be distributed to all Bidders who submitted bids in time.

E. Evaluation and Comparison of Bids

Confidentiality

- 27.1 Information relating to the examination, evaluation, comparison, and postqualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the Contract Award.
- 27.2 Any effort by a Bidder to influence the Purchaser in the examination, evaluation, comparison, and postqualification of the bids or Contract Award decisions may result in the rejection of its Bid.
- 27.3 Notwithstanding ITB Sub-Clause 27.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.

Clarification of Bids

- 28 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder in respect to its Bid and that is not in response to a request by the Purchaser shall not be considered. The Purchaser's request for clarification and the response shall be in writing. No change in the prices or substance of the Bid shall be sought, offered, or permitted, except to confirm the correction of arithmetic errors discovered by the Purchaser in the Evaluation of the bids, in accordance with ITB Clause 30.

Responsiveness of

- 29.1 The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself.

Bids

- 29.2 A substantially responsive Bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that:
- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
 - (b) limits in any substantial way, inconsistent with the Bidding Documents, the Purchaser's rights or the Bidder's obligations under the Contract; or
 - (c) if rectified, would unfairly affect the competitive position of other bidders presenting substantially responsive bids.
- 29.3 If a bid is not substantially responsive to the Bidding Documents, it shall be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the material deviation, reservation, or omission.

**Nonconformities,
Errors, and
Omissions**

- 30.1 In the examination of substantially responsive bids, the Purchaser shall distinguish between errors and omissions that are properly subject to correction and those that are not. A Bidder should not be automatically disqualified for not having presented complete information, either unintentionally or because the requirements in these Bidding Documents were not sufficiently clear. Provided that the error or omission in question is subject to correction – generally a situation arising in the context of issues relating to data, information of a factual or historical nature, or issues that do not affect the principal that bids should be substantially responsive, the Purchaser must permit the Bidder to promptly provide the missing information or correct the mistake. However, there are certain basic errors or omissions which, because of their nature are not subject to correction. Examples of these are failure to sign a bid or submit a guarantee. Furthermore, the Bidder may not be permitted to correct errors or omissions that alter the substance of an offer, constitute material deviation or reservation or in any way improve it.
- 30.2 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line item

total shall be corrected, unless in the opinion of the Purchaser there is an obvious misplacement of the decimal point in the unit price, in which case the line item total as quoted shall govern and the unit price shall be corrected;

- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.

**Preliminary
Examination of
Bids**

- 31.1 The Purchaser shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 10 have been provided, and to determine the completeness of each document submitted.
- 31.2 The Purchaser shall confirm that the following documents and information have been provided in the Bid. If any of these documents or information is missing, the offer shall be rejected.
 - (a) Bid Submission Form, in accordance with ITB Sub Clause 10.1;
 - (b) Price Schedules, in accordance with ITB Sub-Clause 11.2;
 - (c) Bid Security in accordance with ITB Clause 20, if applicable.

**Examination of
Terms and
Conditions;
Technical
Evaluation**

- 32.1 The Purchaser shall examine the Bid to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Bidder without any material deviation or reservation.
- 32.2 The Purchaser shall evaluate the technical aspects of the Bid submitted in accordance with ITB Clause 18, to confirm that all requirements specified in Section V, Schedule of Requirements of the Bidding Documents have been met without any material deviation or reservation.
- 32.3 If, after the examination of the terms and conditions and the technical evaluation, the Purchaser determines that the Bid is not substantially responsive in accordance with ITB Clause 29, it shall reject the Bid.

**Conversion to
Single**

- 33 For evaluation and comparison purposes, the Purchaser shall convert all bid prices expressed in amounts in various

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| Currency | | currencies into an amount in a single currency specified in the BDS, using the selling exchange rates established by the source and on the date specified in the BDS. |
| Domestic Preference | 34 | Domestic preference shall not be a factor in bid evaluation, unless otherwise specified in the BDS. |
| Evaluation of Bids | 35.1 | The Purchaser shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive. |
| | 35.2 | To evaluate a Bid, the Purchaser shall only use all the factors, methodologies and criteria defined in ITB Clause 35. No other criteria or methodology shall be permitted. |
| | 35.3 | To evaluate a Bid, the Purchaser shall consider the following: <ul style="list-style-type: none"> (a) evaluation will be done for Items or Lots, as specified in the BDS; and the Bid Price as quoted in accordance with ITB Clause 13; (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 30.2; (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 13.4; (d) adjustments due to the application of the evaluation criteria specified in the BDS from amongst those set out in Section III, Evaluation and Qualification Criteria; (e) adjustments due to the application of a margin of preference, in accordance with ITB Clause 34 if applicable. |
| | 35.4 | The Purchaser's evaluation of a bid will exclude and not take into account: <ul style="list-style-type: none"> (a) in the case of Goods manufactured in Mauritius, VAT and other similar taxes, which will be payable on the goods if a contract is awarded to the Bidder; (b) in the case of Goods manufactured outside the Purchaser's Country, already imported or to be imported, customs duties and other import taxes levied on the imported Goods, VAT and other similar taxes, which will be payable on the Goods if the contract is awarded to the Bidder; (c) any allowance for price adjustment during the period of |

execution of the contract, if provided in the bid.

- 35.5 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 14. These factors may be related to the characteristics, performance, and terms and conditions of purchase of the Goods and Related Services. The effect of the factors selected, if any, shall be expressed in monetary terms to facilitate comparison of bids, unless otherwise specified in Section III, Evaluation and Qualification Criteria. The factors, methodologies and criteria to be used shall be as specified in ITB 35.3 (d).
- 35.6 If so specified in the BDS, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations is specified in Section III, Evaluation and Qualification Criteria.
- Comparison of Bids** 36 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 35.
- Postqualification of the Bidder** 37.1 The Purchaser shall determine to its satisfaction and in its sole discretion whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract to the Bidder's satisfaction
- 37.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 18.
- 37.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 38 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

Award of Contract

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| Award Criteria | 39 | The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| Purchaser's Right to Vary Quantities at Time of Award | 40 | At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V, Schedule of Requirements, provided this does not exceed the percentages specified in the BDS, and without any change in the unit prices or other terms and conditions of the bid and the Bidding Documents. |
| Notification of Award | 41.1 | Prior to the expiration of the period of bid validity, the Purchaser shall notify the successful Bidder, in writing, that its Bid has been accepted. |
| | 41.2 | Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract. |
| | 41.3 | The Purchaser shall publish awards, in accordance with the Public Procurement Act and, if it deems appropriate or necessary, in UNDB online and in the dgMarket the results identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at bid opening; and (iii) name of the winning Bidder, and the price it offered, as well as the duration and summary scope of the contract awarded. After publication of the award, unsuccessful bidders may request in writing to the Purchaser for a debriefing seeking explanations on the grounds on which their bids were not selected. The Purchaser shall promptly respond in writing to any unsuccessful Bidder who, after Publication of contract award, requests a debriefing. |
| | 41.4 | Upon the successful Bidder's furnishing of the signed Contract Form and performance security, pursuant to ITB Clause 43, the Purchaser will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 20.4. |

**Signing
Contract**

- of 42.1 Promptly after notification, the Purchaser shall send the successful Bidder the Contract Agreement and the Special Conditions of Contract in the number of original copies for execution as specified by the BDS.
- 42.2 Within twenty-eight (28) days of receipt of the Contract Agreements, the successful Bidder shall sign, date, and return them to the Purchaser.
- 42.3 Notwithstanding ITB 42.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, or to Mauritius, or to the use of the products/goods, systems or services to be supplied, where such export restrictions arise from trade regulations from a country supplying those products/goods, systems or services, the Bidder shall not be bound by its bid, always provided however that the Bidder can demonstrate to the satisfaction of the Government of Mauritius that signing of the Contact Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

**Performance
Security**

- 43.1. Within twenty eight (28) days of the receipt of notification of award from the Purchaser, the successful Bidder, if required, shall furnish the Performance Security from a financial institution acceptable to the Purchaser and in accordance with the GCC, using for that purpose the Performance Security Form included in Section VIII Contract forms, or another Form acceptable to the Purchaser. The Public Body shall promptly notify the name of the winning Bidder to each unsuccessful Bidder and discharge the Bid Securities of the unsuccessful bidders pursuant to ITB Sub-Clause 20.4.
- 43.2 If required, the Performance Security shall be in the amount specified in the BDS and denominated in Mauritian Rupees or in a freely convertible currency, and shall:
- (a) be in the form of either a letter of credit or a bank guarantee from a reputable banking institution acceptable to the Purchaser. If the institution issuing the Performance Security is not located in Mauritius, it shall have a correspondent financial institution located in Mauritius to make it enforceable;

- (b) be payable promptly to the Purchaser as compensation for any loss resulting from the Bidder's failure to complete its obligations under the Contract;
 - (c) be submitted in its original form; copies will not be accepted; and
 - (d) remain valid for a period of twenty-eight (28) days following the date of Completion of the Bidder's performance obligations under the Contract, including any warranty obligations, to the satisfaction of the Purchaser unless specified otherwise in the SCC.
- 43.3 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid Security. In that event the Purchaser may award the Contract to the next lowest evaluated Bidder, whose offer is substantially responsive and is determined by the Purchaser to be qualified to perform the Contract satisfactorily.

Section II. Bidding Data Sheet (BDS)

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

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

| ITB Clause Reference | A. General |
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| ITB 1.1 | The Purchaser is: <i>Ministry of Agro Industry & Fisheries</i> |
| ITB 1.1 | The name and identification number of the OAB are: <i>Procurement of Cotton Seed Cake for the Manufacture of Animal Feed - Procurement No CPB/102/2008.</i> |
| ITB 1.1 | The name of the Project is: <i>Procurement of Cotton Seed Cake for the Manufacture of Animal Feed</i> |
| ITB 2.2 | The address to file challenge in respect of this procurement is: <i>Senior Chief Executive, Ministry of Agro Industry & Fisheries, 9th Floor Renganaden Seeneevassen (Ex NPF) Building, Cnr Jules Koenig & Maillard Streets, Port Louis</i> The address to file application for review is: <i>Independent Review Panel 1st Floor, Stratton Court, Poudrière Road, Port Louis.</i> |
| | B. Contents of Bidding Documents |
| ITB 6 | For Clarification of bid purposes only, the Purchaser's address is: <i>Attention: Chief Purchasing & Supply Officer, Ministry of Agro Industry & Fisheries, Stores Division, Réduit.</i> <i>City: [insert name of city or town]</i> <i>ZIP Code: [insert postal (ZIP) code, if applicable]</i> <i>Country: Mauritius</i> <i>Telephone: 466 9255</i> <i>Facsimile number: 464 4899</i> <i>Electronic mail address: moa-stores@mail.gov.mu</i> |

| | C. Preparation of Bids |
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| ITB 9 | The language of the bid is: <i>English</i> . |
| ITB 11.2 | The Bidder shall submit the following additional documents in its bid: <i>Nil</i> |
| ITB 12 | Alternative Bids " <i>shall not be</i> " considered. |
| ITB 13.5 | The Incoterms edition is: " <i>Incoterms 2000</i> " |
| ITB 13.6 (b) (i) and (c) (iii) | Place of Destination: <i>Port Louis</i> |
| ITB 13.6 (a) (iii);(b)(ii) and (c)(v) | Final destination: <i>Richelieu Livestock Feed Factory, Richelieu, Coromandel</i> |
| ITB 13.6 (b) (iii) | In addition to the CIP price specified in ITB 13.6 (b)(i), the price of the Goods manufactured outside the Purchaser's Country shall be quoted: <i>Not Applicable</i> |
| ITB 13.7 | The prices quoted by the Bidder " <i>shall not</i> " be adjustable. |
| ITB 13.8 | Price quoted for the item of shall correspond at least to <i>100</i> percent of the quantities specified for this item. |
| ITB 14.1 | Bidders " <i>are</i> " required to quote in the currency the portion of the bid price that corresponds to expenditures incurred in that currency. |
| ITB 18.2 | Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>Not Applicable</i> |
| ITB 18.1 | Manufacturer's authorization is: " <i>required</i> " |
| ITB 18.1 | After sales service is: " <i>not required</i> " |
| ITB 19.1 | The bid validity period shall be <i>120</i> days. |
| ITB 20 | (a) Bid shall include a Bid Security (issued by bank) included in Section IV Bidding Forms. |
| ITB 20.2 | The amount of the Bid Security shall be: <i>2% of the total contract value, up to a maximum of Rs560,000.00. The Bid Security shall be valid for a period of 30 days beyond the bid validity.</i> |

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| ITB 22 | In addition to the original of the bid, the number of copies is: <i>Nil</i> |
| D. Submission and Opening of Bids | |
| ITB 22 | Bidders " <i>shall not</i> " have the option of submitting their bids electronically. |
| ITB 22.2 | <p>The inner and outer envelopes shall bear the following additional identification marks: (i) <i>Procurement of Cotton Seed Cake for the Manufacture of Animal Feed - Procurement No CPB/102/2008, Ministry of Agro Industry & Fisheries</i></p> <p>(ii) <i>The company name of the bidder must be clearly marked at the back of the envelope</i></p> |
| ITB 23 | <p>For bid submission purposes, the Purchaser's address is:</p> <p>Attention: <i>The Chairman</i></p> <p>Address: <i>Central Procurement Board's Office</i></p> <p>Floor-Room number: <i>1st Floor, Social Security House, Julius Nyerere Avenue</i></p> <p>City: <i>Rose Hill</i></p> <p>ZIP Code: <i>Not Applicable</i></p> <p>Country: <i>Mauritius</i></p> <p>The deadline for the submission of bids is:</p> <p>Date: <u>Wednesday 6th August 2008</u></p> <p>Time: <i>13.30 hrs (local time) at least</i></p> |
| ITB 26.1 | <p>The bid opening shall take place at: <i>Central Procurement Board's Office</i></p> <p>Street Address: <i>Social Security House, Julius Nyerere Avenue</i></p> <p>Floor/ Room number: <i>1st Floor</i></p> <p>City: <i>Rose Hill</i></p> <p>Country: <i>Mauritius</i></p> <p>Date: <u>Wednesday 6th August 2008</u></p> <p>Time: <i>14.00 hrs (local time)</i></p> |
| E. Evaluation and Comparison of Bids | |
| ITB 33 | Bid prices expressed in different currencies shall be converted in: <i>Mauritian Rupees</i> |

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| | <p>The source of exchange rate shall be: <i>Bank of Mauritius</i></p> <p>The date for the exchange rate shall be <i>the date fixed for submission of bids.</i></p> |
| ITB 34 | Domestic preference “ <i>shall not</i> ” be a bid evaluation factor. |
| ITB 35 | <p>Evaluation will be done for <i>all items</i></p> <p>Note:</p> <p><i>Bids will be evaluated for the item and the Contract will comprise the item awarded to the successful Bidder.</i></p> |
| ITB 35.3(d) | <p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: <i>[refer to Schedule III, Evaluation and Qualification Criteria;</i></p> <p>(a) Deviation in Delivery schedule: <i>No</i></p> <p>(b) Deviation in payment schedule: <i>No</i></p> <p>(c) the cost of major replacement components, mandatory spare parts, and service: <i>Not Applicable.</i></p> <p>(d) the availability in Mauritius of spare parts and after-sales services for the equipment offered in the bid is <i>Not Applicable.</i></p> <p>(e) the projected operating and maintenance costs during the life of the equipment is <i>Not Applicable.</i></p> <p>(f) the performance and productivity of the equipment offered; <i>Not Applicable.</i></p> <p>(g) <i>[insert any other specific criteria] -</i></p> |
| ITB 35.6 | Bidders “ <i>shall or shall not</i> ” be allowed to quote separate prices for one or more items: <i>Not Applicable</i> |
| | F. Award of Contract |
| ITB 40 | <p>The maximum percentage by which quantities may be increased is: <i>5%</i></p> <p>The maximum percentage by which quantities may be decreased is: <i>5%</i></p> |

Section III. Evaluation and Qualification Criteria

This Section complements the Instructions to Bidders. It contains the criteria that the Purchaser may use to evaluate a bid and determine whether a Bidder has the required qualifications. No other criteria shall be used.

[The Purchaser shall select the criteria deemed appropriate for the procurement process, insert the appropriate wording using the samples below or other acceptable wording, and delete the text in italics]

Contents

1. Domestic Preference (ITB 34)
2. Evaluation Criteria (ITB 35.3 (d))
3. Multiple Contracts (ITB 35.6)
4. Postqualification Requirements (ITB 37.2)

1. Domestic Preference (ITB 34)

If the Bidding Data Sheet so specifies, the Purchaser will grant a margin of preference to goods manufactured in Mauritius for the purpose of bid comparison, in accordance with the procedures outlined in subsequent paragraphs.

Bids will be classified in one of three groups, as follows:

- (a) **Group A:** Bids offering goods manufactured in Mauritius, for which (i) labor, raw materials, and components from within Mauritius, account for more than thirty (30) percent of the EXW price; and (ii) the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of bid submission.
- (b) **Group B:** All other bids offering Goods manufactured in Mauritius.
- (c) **Group C:** Bids offering Goods manufactured outside Mauritius that have been already imported or that will be imported.

To facilitate this classification by the Purchaser, the Bidder shall complete whichever version of the Price Schedule furnished in the Bidding Documents is appropriate provided, however, that the completion of an incorrect version of the Price Schedule by the Bidder shall not result in rejection of its bid, but merely in the Purchaser's reclassification of the bid into its appropriate bid group.

The Purchaser will first review the bids to confirm the appropriateness of, and to modify as necessary, the bid group classification to which bidders assigned their bids in preparing their Bid Forms and Price Schedules.

All evaluated bids in each group will then be compared to determine the lowest evaluated bid of each group. Such lowest evaluated bids shall be compared with each other and if as a result of this comparison a bid from Group A or Group B is the lowest, it shall be selected for the award.

If, as a result of the preceding comparison, the lowest evaluated bid is from Group C, the lowest evaluated bid from Group C bids will then be further compared with the lowest evaluated bid from Group A, after adding to the evaluated bid price of goods offered in the bid for Group C, for the purpose of further comparison only an amount equal to fifteen (15) percent of the CIP (named place of destination) bid price. The lowest-evaluated bid determined from this last comparison shall be selected for the award.

2. Evaluation Criteria (ITB 35.3 (d))

The Purchaser's evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Clause 13.6, one or more of the following factors as specified in ITB Sub-Clause 35.3(d) and in BDS referring to ITB 35.3(d), using the following criteria and methodologies.

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

The Goods specified in the List of Goods are required to be delivered within the acceptable time range (after the earliest and before the final date, both dates inclusive) specified in Section VI, Delivery Schedule. No credit will be given to deliveries before the earliest date, and bids offering delivery after the final date shall be treated as non responsive. Within this acceptable period, an adjustment, as specified in BDS Sub-Clause 35.3(d), will be added, for evaluation purposes only, to the bid price of bids offering deliveries later than the “Earliest Delivery Date” specified in Section VI, Delivery Schedule.

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

(i) *Bidders shall state their bid price for the payment schedule outlined in the SCC. Bids shall be evaluated on the basis of this base price. Bidders are, however, permitted to state an alternative payment schedule and indicate the reduction in bid price they wish to offer for such alternative payment schedule. The Purchaser may consider the alternative payment schedule and the reduced bid price offered by the Bidder selected on the basis of the base price for the payment schedule outlined in the SCC.*

or

(ii) *The SCC stipulate the payment schedule specified by the Purchaser. If a bid deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the bid as compared with those stipulated in the SCC, at the rate per annum specified in BDS Sub-Clause 35.3 (d).*

(c) Cost of major replacement components, mandatory spare parts, and service. *[insert one of the following]*

(i) *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 BDS Sub-Clause 18.2, is in the List of Goods. An adjustment equal to the total cost of these items, at the unit prices quoted in each bid, shall be added to the bid price, for evaluation purposes only.*

or

(ii) *The Purchaser will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the BDS Sub-Clause 18.2. The total cost of these items and quantities will be computed from spare parts unit prices submitted by the Bidder and added to the bid price, for evaluation purposes only.*

(d) Availability in Mauritius of spare parts and after sales services for equipment offered in the bid.

An adjustment equal to the cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in BDS Sub-Clause 35.3(d), if quoted separately, shall be added to the bid price, for evaluation purposes only.

- (e) Projected operating and maintenance costs.

Operating and maintenance costs. An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 35.3(d). The adjustment will be evaluated in accordance with the methodology specified in the BDS Sub-Clause 35.3(d).

- (f) Performance and productivity of the equipment. *[insert one of the following]*

(i) Performance and productivity of the equipment. An adjustment representing the capitalized cost of additional operating costs over the life of the plant will be added to the bid price, for evaluation purposes if specified in the BDS Sub-Clause 35.3(d). The adjustment will be evaluated based on the drop in the guaranteed performance or efficiency offered in the bid below the norm of 100, using the methodology specified in BDS Sub-Clause 35.3(d).

or

(ii) An adjustment to take into account the productivity of the goods offered in the bid will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 35.3(d). The adjustment will be evaluated based on the cost per unit of the actual productivity of goods offered in the bid with respect to minimum required values, using the methodology specified in BDS Sub-Clause 35.3(d).

- (g) Specific additional criteria

Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS Sub-Clause 35.3(d)]

3. Multiple Contracts (ITB 35.6)

The Purchaser shall award multiple contracts to the Bidder that offers the lowest evaluated combination of bids (one contract per bid) and meets the post-qualification criteria (this Section III, Sub-Section ITB 37.2 Post-Qualification Requirements)

The Purchaser shall:

- (a) Evaluate only lots or contracts that include at least the percentages of items per lot and quantity per item as specified in ITB Sub Clause 13.8
- A. (b) Take into account:
- (i) the lowest-evaluated bid for each lot and

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

4. Postqualification Requirements (ITB 37.2)

After determining the lowest-evaluated bid in accordance with ITB Sub-Clause 37.1, the Purchaser shall carry out the postqualification of the Bidder in accordance with ITB Clause 37.2, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the Bidder’s qualifications.

- (a) Financial Capability

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

- (b) Experience and Technical Capacity

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

- (c) The Bidder shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirement: *[list the requirement(s)]*

Section IV. Bidding Forms

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Bidder Information Form

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

Date:

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

OAB No.: **CPB/102/2008**

Page _____ of _____ pages

| |
|---|
| 1. Bidder's Legal Name |
| 2. In case of JV, legal name of each party: |
| 3. Bidder's actual or intended Country of Registration: |
| 4. Bidder's Year of Registration: |
| 5. Bidder's Legal Address in Country of Registration: |
| <p>B. 6. Bidder's Authorized Representative Information</p> <p>1. Name:</p> <p> Address:</p> <p> Telephone/Fax numbers:</p> <p> Email Address:</p> |

7. Attached are copies of original documents of: *[check the box(es) of the attached original documents]*

- Articles of Incorporation or Registration of firm named in 1, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.
- In case of JV, letter of intent to form JV or JV agreement, in accordance with ITB Sub-Clause 4.1.
- In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.

Joint Venture Partner Information Form

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

Date:

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

OAB No.: **CPB/102/2008**

Page _____ of _____ pages

| | |
|----|---|
| 1. | Bidder's Legal Name: |
| 2. | JV's Party legal name: |
| 3. | JV's Party Country of Registration: |
| 4. | JV's Party Year of Registration: |
| 5. | JV's Party Legal Address in Country of Registration: |
| 6. | <p>JV's Party Authorized Representative Information: (Note: Any correspondence or notifications sent from the Purchaser to the JV's Party Authorized Representative shall be deemed to have been received by all parties to the JV. All correspondence or notifications to the Purchaser from the JV may only be sent by the JV's Authorized Representative and shall be deemed to be binding on all parties to the JV.)</p> <p>Name:</p> <p>Address:</p> <p>Telephone/Fax numbers:</p> <p>Email Address:</p> |
| 7. | <p>Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i></p> <p><input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2, above, in accordance with ITB Sub-Clauses 4.1 and 4.2.</p> <p><input type="checkbox"/> In case of government owned entity from the Purchaser's country, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.</p> |

Bid Submission Form

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

Date:

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

OAB No.: **CPB/102/2008**

To: *Senior Chief Executive, Ministry of Agro Industry & Fisheries*

We, the undersigned, declare that:

(a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: _____ *[insert the number and issuing date of each Addenda];*

(b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services _____

[insert a brief description of the Goods and Related Services];

(c) The total price of our Bid, excluding any discounts offered in item (d) below, is: _____ *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies];*

(d) The discounts offered and the methodology for their application are:

Discounts. If our bid is accepted, the following discounts shall apply. _____

[Specify in detail each discount offered and the specific item of the Schedule of Requirements to which it applies.]

Methodology of Application of the Discounts. The discounts shall be applied using the following method: _____

[Specify in detail the method that shall be used to apply the discounts];

(e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 19.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 23.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;

- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 43 and GCC Clause 17 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have the following nationality _____ *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality each subcontractor and supplier]*
- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.4;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the Government of Mauritius, under the Purchaser’s country laws or official regulations, in accordance with ITB Sub-Clause 4.6;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

| Name of Recipient | Address | Reason | Amount |
|-------------------|---------|--------|--------|
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |
| _____ | _____ | _____ | _____ |

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

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

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

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

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

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

Price Schedule Forms

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

Price Schedule: Goods Manufactured Outside Mauritius to be Imported

| (Group C bids, goods to be imported) | | | | | | | Date: _____ | | |
|---|----------------------|-------------------|---------------------------------------|----------------------------|---|------------------------------------|--|--------------------------------------|--|
| Currencies in accordance with ITB Sub-Clause 14 | | | | | | | OAB No: _____ | | |
| | | | | | | | Alternative No: _____ | | |
| | | | | | | | Page N° _____ of _____ | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | |
| Line Item N° | Description of Goods | Country of Origin | Delivery Date as defined by Incoterms | Quantity and physical unit | Unit price CIP [<i>insert place of destination</i>] in accordance with ITB 13.6(b)(i) | CIP Price per line item (Col. 5x6) | Price per line item for inland transportation and other services required in the Purchaser's country to convey the Goods to their final destination specified in BDS | Total Price per Line item (Col. 7+8) | |
| 1 | Cotton Seed Cake | | As per delivery schedule at Page 57 | 1600 Metric Tons | | | | | |
| | | | | | | | Total Price | | |

Bidder must clearly fill in columns 3, 6-9

Bidder's Signature: _____ Name: _____ Position: _____
 Authorised for and on behalf of _____ Date: _____
 Company: _____

Price Schedule: Goods Manufactured Outside Mauritius, already imported

| (Group C bids, Goods already imported) Currencies in accordance with ITB Sub-Clause 14 | | | | | | | | | | Date: _____ OAB No: _____ Alternative No: _____ Page N° _____ of _____ | |
|---|----------------------|-------------------|---------------------------------------|----------------------------|---|---|--|--|--|--|---------------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | 12 |
| Line Item N° | Description of Goods | Country of Origin | Delivery Date as defined by Incoterms | Quantity and physical unit | Unit price including Custom Duties and Import Taxes paid, in accordance with ITB 13.6(c)(i) | Custom Duties and Import Taxes paid per unit in accordance with ITB 13.6(c)(ii), [to be supported by documents] | Unit Price net of custom duties and import taxes, in accordance with ITB 13.6(c)(iii) (Col. 6 minus Col.7) | Price per line item net of Custom Duties and Import Taxes paid, in accordance with ITB 13.6(c)(i) (Col. 5×8) | Price per line item for inland transportation and other services required in the Purchaser's country to convey the goods to their final destination, as specified in BDS in accordance with ITB 13.6(c)(v) | VAT and other taxes paid or payable per item if Contract is awarded (in accordance with ITB 13.6(c)(iv)) | Total Price per line item (Col. 9+10) |
| 1. | Cotton Seed Cake | | As per delivery schedule at Page 57 | 1600 Metric Tons | | | | | | | |
| | | | | | | | | | | | |
| | | | | | | | | | | Total Bid Price | |

Bidder must clearly fill in columns 3, 6-12

Bidder's

Signature: _____

Name: _____

Position: _____

Authorised for and on behalf of

Company: _____

Date: _____

Price Schedule: Goods Manufactured in Mauritius

| Purchaser's Country _____ | | (Group A and B bids) Currencies in accordance with ITB Sub-Clause 14 | | | | | Date: _____ OAB No: _____ Alternative No: _____ Page N° _____ of _____ | | | |
|------------------------------|----------------------|---|----------------------------|----------------|--|---|---|---|--------------------------------------|--|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | |
| Line Item N° | Description of Goods | Delivery Date as defined by Incoterms | Quantity and physical unit | Unit price EXW | Total EXW price per line item (Col. 4x5) | Price per line item for inland transportation and other services required in the Purchaser's Country to convey the Goods to their final destination | Cost of local labor, raw materials and components from with origin in the Purchaser's Country % of Col. 5 | VAT and other taxes payable per line item if Contract is awarded (in accordance with ITB 13.6(a)(ii)) | Total Price per line item (Col. 6+7) | |
| 1. | Cotton Seed Cake | As per delivery schedule at Page 57 | 1600 Metric Tons | | | | | | | |
| | | | | | | | | | | |
| | | | | | | | | Total Price | | |

Bidder must clearly fill in columns 5-10

Bidder's
Signature: _____ Name: _____ Position: _____
Authorised for and on behalf of _____ Date: _____
Company: _____

Price and Completion Schedule - Related Services

| Currencies in accordance with ITB Sub-Clause 14 | | | | | | Date: _____ |
|---|--|-------------------|---|----------------------------|------------|--|
| | | | | | | OAB No: _____ |
| | | | | | | Alternative No: _____ |
| | | | | | | Page N° _____ of _____ |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
| Service N° | Description of Services (excludes inland transportation and other services required in the Purchaser's country to convey the goods to their final destination) | Country of Origin | Delivery Date at place of Final destination | Quantity and physical unit | Unit price | Total Price per Service (Col. 5*6 or estimate) |
| 1. | Cotton Seed Cake Freight for imported goods (refer to page 48) | | As per delivery schedule at Page 57 | 1600 Metric Tons | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| | | | | | | |
| Total Bid Price | | | | | | |

Bidder must clearly fill in columns 3,6,7

Bidder's
 Signature: _____ Name: _____ Position: _____
 Authorised for and on behalf of _____ Date: _____
 Company: _____

Bid Security (Bank Guarantee)

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

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

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

Date: _____

BID GUARANTEE No.: _____

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

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

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

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

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

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

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

[signature(s)]

Manufacturer's Authorization

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

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

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

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

To: *[insert complete name of Purchaser]*

WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 27 of the General Conditions of Contract, with respect to the Goods offered by the above firm.

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

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

Title: *[insert title]*

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

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

PART 2 – Supply Requirements

Section V. Schedule of Requirements

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Notes for Preparing the Schedule of Requirements

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

The objective of the Schedule of Requirements is to provide sufficient information to enable bidders to prepare their bids efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. 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 pursuant to ITB Clause 40.

The date or period for delivery should be carefully specified, taking into account (a) the implications of delivery terms stipulated in the Instructions to Bidders 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).

2. List of Related Services and Completion Schedule

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

| Service | Description of Service | Quantity ¹ | Physical Unit | Place where Services shall be performed | Final Completion Date(s) of Services |
|----------------------------|---|--|---|---|---|
| <i>[insert Service No]</i> | <i>[insert description of Related Services]</i> | <i>[insert quantity of items to be supplied]</i> | <i>[insert physical unit for the items]</i> | <i>[insert name of the Place]</i> | <i>[insert required Completion Date(s)]</i> |
| 1. | Cotton Seed Cake Freight for imported goods (refer to page 48) | 1600 | Metric Tons | Port Louis | Not Applicable |
| | | | | | |
| | | | | | |
| | | | | | |

3. Technical Specifications

The purpose of the Technical Specifications (TS), is to define the technical characteristics of the Goods and Related Services required by the Purchaser. The Purchaser shall prepare the detailed TS take into account that:

- *The TS constitute the benchmarks against which the Purchaser will verify the technical responsiveness of bids and subsequently evaluate the bids. Therefore, well-defined TS will facilitate preparation of responsive bids by bidders, as well as examination, evaluation, and comparison of the bids by the Purchaser.*
- *The TS shall 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.*
- *The TS shall make use of best practices. Samples of specifications from successful similar procurements in the same country or sector may provide a sound basis for drafting the TS.*
- *The Government of Mauritius encourages the use of metric units.*
- *Standardizing technical specifications may be advantageous, depending on the complexity of the goods and the repetitiveness of the type of procurement. Technical Specifications should be broad enough to avoid restrictions on workmanship, materials, and equipment commonly used in manufacturing similar kinds of goods.*
- *Standards for equipment, materials, and workmanship specified in the Bidding Documents shall not be restrictive. Recognized international standards should be specified as much as possible. Reference to brand names, catalogue numbers, or other details that limit any materials or items to a specific manufacturer should be avoided as far as possible. Where unavoidable, such item description should always be followed by the words “or substantially equivalent.” When other particular standards or codes of practice are referred to in the TS, whether from Mauritius or from other eligible countries, a statement should follow other authoritative standards that ensure at least a substantially equal quality, then the standards mentioned in the TS will also be acceptable.*
- *Reference to brand names and catalogue numbers should be avoided as far as possible; where unavoidable the words “or at least equivalent” shall always follow such references.*
- *Technical Specifications shall be fully descriptive of the requirements in respect of, but not limited to, the following:*
 - (a) *Standards of materials and workmanship required for the production and manufacturing of the Goods.*
 - (b) *Detailed tests required (type and number).*

- (c) *Other additional work and/or Related Services required to achieve full delivery/completion.*
 - (d) *Detailed activities to be performed by the Supplier, and participation of the Purchaser thereon.*
 - (e) *List of detailed functional guarantees covered by the Warranty and the specification of the liquidated damages to be applied in the event that such guarantees are not met.*
- *The TS shall specify all essential technical and performance characteristics and requirements, including guaranteed or acceptable maximum or minimum values, as appropriate. Whenever necessary, the Purchaser shall include an additional ad-hoc bidding form (to be an Attachment to the Bid Submission Sheet), where the Bidder shall provide detailed information on such technical performance characteristics in respect to the corresponding acceptable or guaranteed values.*

When the Purchaser requests that the Bidder provides in its bid a part or all of the Technical Specifications, technical schedules, or other technical information, the Purchaser shall specify in detail the nature and extent of the required information and the manner in which it has to be presented by the Bidder in its bid.

[If a summary of the Technical Specifications (TS) has to be provided, the Purchaser shall insert information in the table below. The Bidder shall prepare a similar table to justify compliance with the requirements]

“Summary of Technical Specifications. *The Goods and Related Services shall comply with following Technical Specifications and Standards:*

| <i>Item No</i> | <i>Name of Goods or Related Service</i> | <i>Technical Specifications and Standards</i> |
|-----------------------|--|---|
| <i>1</i> | <i>Cotton Seed Cake</i> | <i>Decorticated to a size less than 10cm</i> <i>Protein/Fat Combined Not less than 40%</i> <i>Crude Fibre Not greater than 14%</i> <i>Moisture Not greater than 10%</i> <i>Free Gossipol Not greater than 0.05%</i> |
| | | |

Detailed Technical Specifications and Standards [whenever necessary].

[Insert detailed description of TS]

_____”]

4. Drawings

These Bidding Documents includes “no” drawings.

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

| List of Drawings | | |
|-------------------------|---------------------|----------------|
| Drawing Nr. | Drawing Name | Purpose |
| | | |
| | | |
| | | |
| | | |
| | | |

5. Inspections and Tests

The following inspections and tests shall be performed:

(a) Chemicals tests performed:

- (1) % Dry matter
- (2) % Crude protein
- (3) % Crude fibre
- (4) % Ether extract
- (5) %P₂O₅
- (6) % Calcium

(b) Microbiological tests performed:

- (1) Coliform count
- (2) Total plate count
- (3) Staphylococcus count
- (4) Yeast and mould counts
- (5) Other specific microbiological tests if required

GOVERNMENT OF THE REPUBLIC OF MAURITIUS

PART 3 – Contract

Section VI. General Conditions of Contract

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Section VI. General Conditions of Contract

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

successors entitled to each of these persons.

- (m) “Supplier” means the natural person, private or government entity, or a combination of the above, whose bid to perform the Contract has been accepted by the Purchaser and is named as such in the Contract Agreement.
- (n) “The Project Site,” where applicable, means the place named in the SCC.

2. Contract Documents

- 2 Subject to the order of precedence set forth in the Contract Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory. The Contract Agreement shall be read as a whole.

3. Fraud and Corruption

- 3 The Government of the Republic of Mauritius requires that bidders/suppliers/contractors, participating in procurement in Mauritius, observe the highest standard of ethics during the procurement process and execution of contracts. Government officials and bidders/suppliers/contractors shall conform to the standards of conduct set forth in sections 51 and 52 of the Public Procurement Act.
 - (a) The definitions set forth above, involve the most common types of prohibited practices, but they are not exhaustive. For this reason, the Government will consider claims of a similar nature involving alleged acts of misconduct or corruption, in accordance with the laws of Mauritius.
 - (b) If it is demonstrated that a Government official, or anyone acting on his or her behalf, and or an offeror in a procurement process or a supplier/contractor during the execution of the contract has committed prohibited or corrupt practices in connection with procurement in Mauritius, and independently of any penal action to be undertaken under the laws of Mauritius:
 - (i) the Public Body will reject a proposal to award a contract in connection with the respective procurement process; and
 - (ii) the offeror or supplier/contractor will be subject to suspension or debarment by the Procurement Policy Office.

- 4. Interpretation**
- 4.1 If the context so requires it, singular means plural and vice versa.
- 4.2 Incoterms
- (a) Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.
- (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.
- 4.3 Entire Agreement
- V. The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.
- 4.4 Amendment
- VI. No amendment or other variation of the Contract shall be valid unless it is in writing, is dated, expressly refers to the Contract, and is signed by a duly authorized representative of each party thereto.
- 4.5 Nonwaiver
- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.
- 4.6 Severability
- VII. If any provision or condition of the Contract is prohibited or

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

- 5. Language**
- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be written in the language specified in the **SCC**. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Contract, this translation shall govern.
- 5.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the Supplier.
- 6. Joint Venture, Consortium or Association**
- 6 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.
- 7. Eligibility**
- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in any country eligible to do business with the Government of Mauritius. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.

- 9. Governing Law** 9 The Contract shall be governed by and interpreted in accordance with the laws of Mauritius, unless otherwise specified in the SCC.
- 10. Settlement of Disputes**
- 10.1 The Purchaser and the Supplier shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the Contract.
- 10.2 If, after twenty-eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract. Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC.
- 10.3 Notwithstanding any reference to arbitration herein,
- (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- (b) The Purchaser shall pay the Supplier any monies due the Supplier.
- 11. Scope of Supply** II. 11. The Goods and Related Services to be supplied shall be as specified in the Schedule of Requirements.
- 12. Delivery and Documents** X. 12 Subject to GCC Sub-Clause 32.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the SCC.
- 13. Supplier's Responsibilities** X. 13 The Supplier shall supply all the Goods and Related Services included in the Scope of Supply in accordance with GCC Clause 11, and the Delivery and Completion Schedule, as per GCC Clause 12.
- 14. Contract Price** 14 Prices charged by the Supplier for the Goods supplied and the Related Services performed under the Contract shall not vary

from the prices quoted by the Supplier in its bid, with the exception of any price adjustments authorized in the SCC.

15. Terms of Payment

- I. 15.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the SCC.
- 15.2 The Supplier's request for payment shall be made to the Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 12 and upon fulfillment of all other obligations stipulated in the Contract.
- 15.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.
- 15.4 The currencies in which payments shall be made to the Supplier under this Contract shall be those in which the bid price is expressed.
- 15.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the SCC, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.

16. Taxes and Duties

- 16.1 For goods manufactured outside of Mauritius, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Mauritius.
- 16.2 For goods Manufactured within Mauritius, the Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
- 16.3 If any tax exemptions, reductions, allowances or privileges may be available to the Supplier in Mauritius, the Purchaser shall use its best efforts to enable the Supplier to benefit from any such tax savings to the maximum allowable extent.

17. Performance Security

- 17.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the SCC and from a reputable financial institution acceptable to the Purchaser.

- 17.2 The proceeds of the Performance Security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 17.3 As specified in the SCC, the Performance Security, if required, shall be denominated in the currency(ies) of the Contract, or in a freely convertible currency acceptable to the Purchaser; and shall be in original form (not a copy) and in one of the formats stipulated by the Purchaser in the SCC, or in another format acceptable to the Purchaser.
- 17.4 The Performance Security shall be discharged by the Purchaser and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier's performance obligations under the Contract to the satisfaction of the Purchaser, including any warranty obligations, unless specified otherwise in the SCC.

18. Copyright

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

19. Confidential Information

- 19.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 19.
- 19.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the

Contract.

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

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

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

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

20. Subcontracting

20.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under the Contract if not already specified in the bid. Such notification, in the original bid or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

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

21. Specifications and Standards

21 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section V, Schedule of Requirements and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the Goods' country of origin.
- (b) The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Purchaser, by giving a

notice of such disclaimer to the Purchaser.

- (c) Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any changes in any such codes and standards shall be applied only after approval by the Purchaser and shall be treated in accordance with GCC Clause 32.

22. Packing and Documents

- 22.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. During transit, the packing shall be sufficient to withstand, without limitation, rough handling and exposure to extreme temperatures, salt and precipitation, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.
- 22.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC, and in any other instructions ordered by the Purchaser.

23. Insurance

- II. 23 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured—in a freely convertible currency from an eligible country—against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in accordance with the applicable Incoterms or in the manner specified in the SCC.

24. Transportation

- 24 Unless otherwise specified in the SCC, responsibility for arranging transportation of the Goods shall be in accordance with the specified Incoterms.

25. Inspections and Tests

- 25.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the SCC.
- 25.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in the Purchaser's Country as specified in the SCC. Subject to GCC Sub-Clause 25.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance,

including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

- 25.3 The Purchaser or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 25.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 25.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 25.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 25.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 25.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 25.4.
- 25.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 25.6, shall release the Supplier from any warranties or other obligations under the Contract.

26. Liquidated Damages

- II. 26 Except as provided under GCC Clause 31, if the Supplier fails to deliver any or all of the Goods by the Date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 34.

27. Warranty

- 27.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 27.2 Subject to GCC Sub-Clause 21.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in the country of final destination.
- 27.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 27.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 27.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 27.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may

have against the Supplier under the Contract.

28. Indemnity

28.1 The Contractor shall indemnify, hold and save harmless and defend, at its own expense, the Purchaser, its officials, agents, servants and employees, from and against all suits, claims, demands and liability of any nature or kind, including their costs and expenses, arising out acts or omissions of the Contractor, or the Contractor's employees, officers, agents or sub-contractors, in the performance of this Contract. The obligations under this section do not lapse upon termination of this Contract.

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

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

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

II. 28.3 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 28.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

III.

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

29. Limitation of Liability

- I. 29 Except in cases of criminal negligence or willful misconduct, the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser

30. Change in Laws and Regulations

- II. 30. Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the Purchaser's country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment

provisions where applicable, in accordance with GCC Clause 14.

- 31. Force Majeure**
- 31.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 31.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 31.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.
- 32. Change Orders and Contract Amendments**
- 32.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and
 - (d) the Related Services to be provided by the Supplier.
- 32.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier’s performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier’s receipt of the Purchaser’s

change order.

- 32.3 Prices to be charged by the Supplier for any Related Services that might be needed but which were not included in the Contract shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.
- 32.4 Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

33. Extensions of Time

- 33.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 12, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.
- 33.2 Except in case of Force Majeure, as provided under GCC Clause 31, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

34. Termination

- 34.1 Termination for Default
- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
- (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 33;
- (ii) if the Supplier fails to perform any other obligation under the Contract; or
- (iii) if the Supplier, in the judgment of the Purchaser has engaged in fraud and corruption, as defined in GCC

Clause 3, in competing for or in executing the Contract.

- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 34.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

34.2 Termination for Insolvency.

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

34.3 Termination for Convenience.

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

35. Assignment

- 35 The Supplier shall not assign, in whole or in part, its obligations under this Contract, except with prior written

consent of the Purchaser. The Purchaser may assign, in whole or in part, this Contract to any agency of the Government of Mauritius without the prior approval of the Supplier.

I.

**36. Export
Restriction**

- 36 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to Mauritius, or to the use of the products/goods, systems or services to be supplied, which arise from trade regulations from a country supplying those products/goods, systems or services, and which substantially impede the Supplier from meeting its obligations under the Contract, shall release the Supplier from the obligation to provide deliveries or services, always provided, however, that the Supplier can demonstrate to the satisfaction of the Purchaser and of the Bank that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract. Termination of the Contract on this basis shall be for the Public Body's convenience pursuant to Sub-Clause 34.3.

I.

Section VII. Special Conditions of Contract

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

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

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| GCC 1.1(h) | The Purchaser's country is: Mauritius. |
| GCC 1.1(i) | The Purchaser is: <i>Ministry of Agro Industry & Fisheries</i> |
| GCC 1.1 (n) | The Project Final Destination is: <i>Richelieu Livestock Feed Factory, Richelieu, Coromandel</i> |
| GCC 4.2 (a) | The meaning of the trade terms shall be as prescribed by Incoterms. |
| GCC 4.2 (b) | The version edition of Incoterms shall be <i>2000</i> |
| GCC 5.1 | The language shall be: <i>English</i> |
| GCC 8. | For <u>notices</u> , the Purchaser's address shall be: Attention: <i>Chief Purchasing & Supply Officer</i> Street Address: <i>Réduit</i> Floor/ Room number: City: ZIP Code: Mauritius Telephone: <i>466 9255</i> Facsimile number: <i>464 4899</i> Electronic mail address: <i>moa-stores@mail.gov.mu</i> |
| GCC 9.1 | The governing law shall be the law of: <i>Mauritius</i> |
| GCC 10.2 | The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows: <i>[The bidding documents should contain one clause to be retained in the event of a Contract with a foreign Supplier and</i> |

one clause to be retained in the event of a Contract with a Supplier who is a national of the Purchaser's country. At the time of finalizing the Contract, the respective applicable clause should be retained in the Contract. The following explanatory note should therefore be inserted as a header to GCC 10.2 in the bidding document.

"Clause 10.2 (a) shall be retained in the case of a Contract with a foreign Supplier and clause 10.2 (b) shall be retained in the case of a Contract with a national of the Purchaser's country."]

(a) Contract with foreign Supplier:

[For contracts entered into with foreign suppliers, International commercial arbitration may have practical advantages over other dispute settlement methods. Among the rules to govern the arbitration proceedings, the Purchaser may wish to consider the United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules of 1976, the Rules of Conciliation and Arbitration of the International Chamber of Commerce (ICC), the Rules of the London Court of International Arbitration or the Rules of Arbitration Institute of the Stockholm Chamber of Commerce.]

If the Purchaser chooses the UNCITRAL Arbitration Rules, the following sample clause should be inserted:

GCC 10.2 (a)—Any dispute, controversy or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.

If the Purchaser chooses the Rules of ICC, the following sample clause should be inserted:

GCC 10.2 (a)—All disputes arising in connection with the present Contract shall be finally settled under the Rules of

Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules.

If the Purchaser chooses the Rules of Arbitration Institute of Stockholm Chamber of Commerce, the following sample clause should be inserted:

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| | <p>GCC 10.2 (a)—Any dispute, controversy or claim arising out of or in connection with this Contract, or the breach termination or invalidity thereof, shall be settled by arbitration in accordance with the Rules of the Arbitration Institute of the Stockholm Chamber of Commerce.</p> <p><i>If the Purchaser chooses the Rules of the London Court of International Arbitration, the following clause should be inserted:</i></p> <p>GCC 10.2 (a)—Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination shall be referred to and finally resolved by arbitration under the Rules of the London Court of International Arbitration, which rules are deemed to be incorporated by reference to this clause.</p> <p>(b) <i>Contracts with Supplier national of the Purchaser’s country:</i></p> <p>In the case of a dispute between the Purchaser and a Supplier who is a national of the Purchaser’s country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the Purchaser’s country.</p> |
| GCC 12. | <p>Details of Shipping and other Documents to be furnished by the Supplier are a <i>negotiable Bill of Lading, Insurance Certificate & Supplier’s Factory shipping details.</i></p> <p>The above documents shall be received by the Purchaser before arrival of the Goods and, if not received, the Supplier will be responsible for any consequent expenses.</p> |
| GCC 14. | <p>The prices charged for the Goods supplied and the related Services performed “<i>shall not</i> be adjustable.</p> |
| GCC 15.1 | <p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p>Payment for Goods supplied from abroad:</p> <p>Payment of foreign currency portion shall be made in:</p> <p>On Shipment: Hundred (100) percent of the Contract Price of the Goods shipped shall be paid through irrevocable confirmed letter of credit opened in favor of the Supplier in a bank in its country, upon submission of documents specified in GCC</p> |

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| | <p>Clause 12.</p> <p>Payment for Local Suppliers:</p> <p>Payment of local currency portion shall be made in <i>Mauritian Rupees</i> within thirty (30) days of presentation of claim supported by a certificate from the Purchaser declaring that the Goods have been delivered and that all other contracted Services have been performed.</p> <p>Payment for Goods and Services supplied from within the Purchaser's country:</p> <p>Payment for Goods and Services supplied from within the Purchaser's country shall be made in <i>Mauritian Rupees</i>, as follows:</p> <p>On Delivery: <i>100% of the amount equivalent to the quantity supplied according to delivery schedule (page 57), upon satisfaction of the Ministry.</i></p> |
| GCC 15.3 | The payment-delay period after which the Purchaser shall pay interest to the supplier shall be: <i>60 days after submission of invoice.</i> |
| GCC 15.5 | Interest payable shall be at the rate of 0.1% of the value of each consignment, or part thereof, per week. |
| GCC 17.1 | A Performance Security " <i>shall</i> " be required <i>The amount of the Performance shall be: 10% of the contract value.</i> The Performance Security shall be in the form of: " <i>a Bank Guarantee</i> " |
| GCC 17.3 | The Performance security shall be denominated in <i>Mauritian Rupees</i> |
| GCC 17.4 | Discharge of the Performance Security shall take place: <i>28 days after the completion of the supplies</i> |
| GCC 22.2 | The packing, marking and documentation within and outside the packages shall be <i>not be applicable.</i> |
| GCC 23. | The insurance coverage shall be as specified in the Incoterms. |
| GCC 24. | Responsibility for transportation of the Goods shall be as specified in the Incoterms. |

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| GCC 25.1 | <p>The inspections and tests shall be:</p> <p>Chemicals tests performed:</p> <ol style="list-style-type: none"> (1) % Dry matter (2) % Crude protein (3) % Crude fibre (4) % Ether extract (5) %P₂O₅ (6) % Calcium <p>Microbiological tests performed:</p> <ol style="list-style-type: none"> (1) Coliform count (2) Total plate count (3) Staphylococcus count (4) Yeast and mould counts (5) Other specific microbiological tests if required |
| GCC 25.2 | The Inspections and tests shall be conducted at: <i>Ministry of Agro Industry & Fisheries</i> |
| GCC 26. | The liquidated damage shall be: <i>a sum equivalent to 0.5% of the value of undelivered goods for each week of delay.</i> |
| GCC 26. | The maximum amount of liquidated damages shall be: <i>5% of the contract value.</i> |
| GCC 27.3 | The period of validity of the Warranty shall <i>not be applicable</i> |
| GCC 27.5 | The period for repair or replacement shall <i>not be applicable</i> |

Attachment: Price Adjustment Formula

If in accordance with GCC 14.1, prices shall be adjustable, the following method shall be used to calculate the price adjustment:

14.2 Prices payable to the Supplier, as stated in the Contract, shall be subject to adjustment during performance of the Contract to reflect changes in the cost of labor and material components in accordance with the formula:

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

$$a+b+c = 1$$

in which:

- P_1 = adjustment amount payable to the Supplier.
- P_0 = Contract Price (base price).
- a = fixed element representing profits and overheads included in the Contract Price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labor component in the Contract Price.
- c = estimated percentage of material component in the Contract Price.
- L_0, L_1 = labor indices applicable to the appropriate industry in the country of origin on the base date and date for adjustment, respectively.
- M_0, M_1 = material indices for the major raw material on the base date and date for adjustment, respectively, in the country of origin.

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

- $a = [insert\ value\ of\ coefficient]$
- $b = [insert\ value\ of\ coefficient]$
- $c = [insert\ value\ of\ coefficient]$

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

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

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

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

- (a) No price adjustment shall be allowed beyond the original delivery dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The

Purchaser will, however, be entitled to any decrease in the prices of the Goods and Services subject to adjustment.

- (b) If the currency in which the Contract Price P_0 is expressed is different from the currency of origin of the labor and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.
- (c) No price adjustment shall be payable on the portion of the Contract Price paid to the Supplier as advance payment.

Section VIII. Contract Forms

Table of Forms

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1. Contract Agreement

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

THIS CONTRACT AGREEMENT is made

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

BETWEEN

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

WHEREAS the Purchaser invited bids for certain Goods and ancillary services, viz., *[insert brief description of Goods and Services]* and has accepted a Bid by the Supplier for the supply of those Goods and Services in the sum of *[insert Contract Price in words and figures, expressed in the Contract currency(ies)]* (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the Goods and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
5. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the Goods and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

For and on behalf of the Purchaser

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

For and on behalf of the Supplier

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

2. Performance Security

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

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

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

Beneficiary: *[insert complete name of Purchaser]*

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

We have been informed that *[insert complete name of Supplier]* (hereinafter called "the Supplier") has entered into Contract No. *[insert number]* dated *[insert day and month]*, *[insert year]* with you, for the supply of *[description of Goods and related Services]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a Performance Guarantee is required.

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s)¹ in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]* *[insert year]*,² and any demand for payment under it must be received by us at this office on or before that date.

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

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

¹ *The Bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Purchaser.*

² *Dates established in accordance with Clause 17.4 of the General Conditions of Contract ("GCC"), taking into account any warranty obligations of the Supplier under Clause 15.2 of the GCC intended to be secured by a partial Performance Guarantee. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months] [one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*

3. Bank Guarantee for Advance Payment

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

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

[bank's letterhead]

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

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

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

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

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)³ in figures and words]* upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

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

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[insert date⁴]*.

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

[signature(s) of authorized representative(s) of the bank] Invitation for Bids (IFB)

³ The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC, either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Purchaser.

⁴ Insert the Delivery date stipulated in the Contract Delivery Schedule. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

