



**Ministry of Health and Quality of Life**

**BIDDING DOCUMENTS**

for

**Procurement of Plastic Flasks  
and Containers**

**(Open National Bidding)**

**OAB No: MHPQ/MDIS/JUL 09-DEC 09/Q6**

**Project: Supply of Plastic Flasks and Containers**

**(Annual Requirements 2010)**

**Purchaser: Ministry of Health & Quality of Life**

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# Section I. Instructions to Bidders

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## Section I. Instructions to Bidders

### A General

1. **Scope of Bid**
  - 1.1 The Purchaser **indicated in the 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 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,) with proof of receipt;
    - (b) if the context so requires, “singular” means “plural” and vice versa; and
    - (c) “day” means calendar day.
2. **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.
3. **Fraud and Corruption**
  - 3.1 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. In pursuance to this policy:
    - (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.*
- (6)
  - (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.*

(Extracts from sections 51 and 52 of the Act)

3.2 Furthermore, bidders shall be aware of the provision in Clauses 3.1 and 35.1 (a) of the General Conditions of Contract.

#### **4. Eligible Bidders**

4.1 Subject to ITB 4.4, a Bidder, and all parties constituting the Bidder, may have the nationality of any country except in the case of open national bidding where the bidding documents may limit participation to citizens of Mauritius or entities incorporated in Mauritius. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services.

4.2 A Bidder shall not have conflict of interest. All bidders found to have 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) are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under these Bidding Documents ; or

(b) submit more than one bid in this bidding process, except for alternative offers permitted under ITB Clause 13. However, this does not limit the participation of subcontractors in more than one bid;

4.3 (a) A Bidder that is under a declaration of ineligibility by the Government of Mauritius in accordance with applicable laws at the date of the deadline for bid submission or thereafter, shall be disqualified.

(b) A firm that is under a declaration of ineligibility by an international financing agency such as World Bank, African Development Bank or any other international agency may not be allowed to participate in this procurement exercise.

4.4 A firm 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 a country where it is based or any payment to persons or entities in that country.

- 4.5 Government-owned enterprises in the Republic of Mauritius shall be eligible only if they can establish that they:
- (i) are legally and financially autonomous;
  - (ii) operate under commercial law, and
  - (iii) are not a dependent agency of the Purchaser.
- 4.6 Bidders shall provide such evidence of their continued eligibility satisfactory to the Purchaser, as the Purchaser shall reasonably request.
- 5. Eligible Goods and Related Services**
- 5.1 All the Goods and Related Services to be supplied under the Contract may have their origin in any country subject to ITB 4.1, 4.3 and 4.4.
- 5.2 For purposes of this Clause, the term “goods” includes commodities, raw material, machinery, equipment, industrial plants and “related services” which include services such as insurance, installation, training, and initial maintenance.
- 5.3 The term “origin” means the country where the goods have been mined, grown, cultivated, produced, manufactured or processed; or, through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

## **B Contents of Bidding Documents**

- 6. Sections of Bidding Documents**
- 6.1 The Bidding Documents consist of Parts 1, 2, and 3, which include all the Sections indicated below, and should be read in conjunction with any 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

- 6.2 The Invitation for Bids issued by the Purchaser is not part of the Bidding Documents.
- 6.3 The Purchaser is not responsible for the completeness of the Bidding Documents and their addendum, if they were not obtained directly from the Purchaser.
- 6.4 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.
- 7. Clarification of Bidding Documents**
- 7.1 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 for international bidding or 14 days for national bidding. 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 8 and ITB Sub-Clause 24.2.
- 8. Amendment of Bidding Documents**
- 8.1 At any time prior to the deadline for submission of bids, the Purchaser may amend the Bidding Documents by issuing addendum.
- 8.2 Any addendum issued shall be part of the Bidding Documents and shall be communicated in writing to all who have obtained the Bidding Documents directly from the Purchaser.
- 8.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their bids, the Purchaser may, at its discretion, extend the deadline for the submission of

bids, pursuant to ITB Sub-Clause 24.2

## **C Preparation of Bids**

- 9. Cost of Bidding** 9.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.
- 10. Language of Bid** 10.1 The Bid, as well as all correspondences and documents relating to the bid exchanged by the Bidder and the Purchaser, shall be written in English. Supporting documents and printed literature that are part of the Bid may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Bid, such translation shall govern.
- 10.2 Notwithstanding the above, documents in French submitted with the bid may be accepted without translation.
- 11. Documents Comprising the Bid** 11.1 The Bid shall comprise the following:
- (a) the Bid Submission Form and the applicable Price Schedules, in accordance with ITB Clauses 12, 14, and 15;
  - (b) the Bid Security or Bid-Securing Declaration, in accordance with ITB Clause 21, if required;
  - (c) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with ITB Clause 22;
  - (d) documentary evidence in accordance with ITB Clause 16 establishing the Bidder's eligibility to bid;
  - (e) documentary evidence in accordance with ITB Clause 17, that the Goods and Related Services to be supplied by the Bidder are of eligible origin;
  - (f) documentary evidence in accordance with ITB Clauses 18 and 30, that the Goods and Related Services conform to the Bidding Documents;
  - (g) documentary evidence in accordance with ITB Clause 19 establishing the Bidder's qualifications to perform the contract if its bid is accepted, and
  - (h) any other document **required in the BDS.**

**12. Bid Submission Form and Price Schedules**

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

**13. Alternative Bids**

- 13.1 Unless otherwise **specified in the BDS**, alternative bids shall not be considered.

**14. Bid Prices and Discounts**

- 14.1 The prices and discounts quoted by the Bidder in the Bid Submission Form and in the Price Schedules, shall conform to the requirements specified below.
- 14.2 All lots and items must be listed and priced separately in the Price Schedules.
- 14.3 The price to be quoted in the Bid Submission Form shall be the total price of the bid, excluding any discount offered.
- 14.4 The Bidder shall quote any unconditional discount and indicate the method for their application in the Bid Submission Form.
- 14.5 The terms EXW, CIP, CIF and other similar terms shall be governed by the rules prescribed in the current edition of Incoterms, published by The International Chamber of Commerce, as specified in the **BDS**.
- 14.6 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. Similarly, the Bidder may obtain insurance services from any eligible country.

The Bidder shall indicate on the appropriate Price Schedule the unit prices (where applicable) and the total bid price of the goods it proposes to supply under the contract.

Prices indicated on the Price Schedule shall be entered separately in the following manner:

- (i) the price of the goods quoted CIF (port of

destination)/CIP(place of destination), or DDP (agreed destination, “delivered fees paid”), as the case may be, including customs duties and other charges already paid or payable:

- a. on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory; or
- b. on the previously imported goods of foreign origin quoted ex- warehouse, ex showroom, or off-the-shelf;

(ii) *VAT which will be payable on the goods if the contract is awarded;*

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(iii) *the price for inland transportation, insurance and other local costs incidental to delivery of the goods to their final destination, if specified in the Bidding Data Sheet;*

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(iv) *the price of other (incidental) services, if any, listed in the Bidding Data Sheet.*

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14.7 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 30. However, if in accordance with the **BDS**, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

14.8 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 14.4 provided the bids for all lots are submitted and opened at the same time.

**15. Currencies of Bid**

15.1 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**.

- 15.2 The Bidder may express the bid price in the currency of any eligible 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 Mauritian Rupees.
- 15.3 Local bidders shall quote only in Mauritian Rupees on the basis of either:
- (a) prices not adjustable to rate of exchange, or
  - (b) prices subject to adjustment to the fluctuation in rate of exchange.

**as indicated in the BDS.**

In case of (b) above, adjustment shall be made upward or downward with respect to fluctuation of exchange rates between the base rate used for the preparation of the bid and that prevailing at the time of delivery of goods. If no base rate is indicated by the bidder the prices shall be considered as not adjustable.

- 16. Documents Establishing the Eligibility of the Bidder**
- 16.1 To establish their eligibility in accordance with ITB Clause 4, Bidders shall complete the Bid Submission Form, included in Section IV: Bidding Forms.
- 17. Documents Establishing the Eligibility of the Goods and Related Services**
- 17.1 To establish the eligibility of the Goods and Related Services in accordance with ITB Clause 5, Bidders shall complete the country of origin declarations in the Price Schedule Forms, included in Section IV, Bidding Forms.
- 18. Documents Establishing the Conformity of the Goods and Related Services**
- 18.1 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.
- 18.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating substantial responsiveness of the Goods and Related Services to the technical specification, and if applicable, a statement of deviations and exceptions to the provisions of the Schedule of

Requirements.

- 18.3 The Bidder shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods during the period **specified in the BDS** following commencement of the use of the goods by the Purchaser.
- 18.4 Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the 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.

**19. Documents  
Establishing the  
Qualifications  
of the Bidder**

- 19.1 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Purchaser's satisfaction that:
- (a) if **required in the BDS**, a Bidder that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorization using the form included in Section IV, Bidding Forms, to demonstrate that it has been duly authorized by the manufacturer or producer of the Goods to supply these Goods in Mauritius;
  - (b) if **required in the BDS**, in case of a Bidder not doing business within Mauritius, the Bidder is or will be (if awarded the contract) represented by an Agent in Mauritius equipped and able to carry out the Supplier's maintenance, repair and spare parts-stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications; and
  - (c) the Bidder meets each of the qualification criterion specified in Section III, Evaluation and Qualification Criteria.

**20. Period of  
Validity of Bids**

- 20.1 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.
- 20.2 In exceptional circumstances, prior to the expiration of the bid

validity period, the Purchaser may request bidders to extend the period of validity of their bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with ITB Clause 21, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its bid, except as provided in ITB Sub-Clause 20.3.

20.3 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.

## **21. Bid Security**

21.1 The Bidder shall furnish as part of its bid, a Bid Security or a Bid-Securing Declaration, if required, as **specified in the BDS**.

21.2 The Bid Security shall be in the amount specified in the BDS and denominated in Mauritian Rupees or a freely convertible currency, and shall:

- (a) be in the form of a bank guarantee from a reputable overseas bank, or
- (b) be issued by a commercial bank operating in Mauritius.
- (c) be substantially in accordance with the forms of Bid Security included in Section IV, Bidding Forms, or other form approved by the Purchaser prior to bid submission;
- (d) be payable promptly upon written demand by the Purchaser in case the conditions listed in ITB Clause 21.5 are invoked;
- (e) be submitted in its original form; copies will not be accepted;
- (f) remain valid for a period of 30 days beyond the validity period of the bids, as extended, if applicable, in accordance with ITB Clause 20.2;

21.3 If a Bid Security is required in accordance with ITB Sub-Clause 21.1, any bid not accompanied by a substantially responsive Bid Security in accordance with ITB Sub-Clause 21.1 shall be rejected by the Purchaser as non-responsive.

21.4 The Bid Security of unsuccessful Bidders shall be returned as

promptly as possible upon the successful Bidder's furnishing of the Performance Security pursuant to ITB Clause 44.

- 21.5 The Bid Security shall be forfeited or the Bid Securing Declaration executed:
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 20.2; or
  - (b) if the successful Bidder fails to:
    - (i) sign the Contract in accordance with ITB Clause 43; and/or
    - (ii) furnish a Performance Security in accordance with ITB Clause 44.
- 21.6 The Bid Security or Bid- Securing Declaration of a Joint Venture (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 or Bid-Securing Declaration 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.
- 21.7 If a bid security is **not required in the BDS**, and
- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Letter of Bid Form, except as provided in ITB 20.2, or
  - (b) if the successful Bidder fails to sign the Contract in accordance with ITB 43; or furnish a performance security in accordance with ITB 44;

the bidder may be disqualified by the Government of Mauritius to be awarded a contract by any Public Body for a period of time, **if provided for in the BDS.**

## **22. Format and Signing of Bid**

- 22.1 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.
- 22.2 The original and all copies of the bid shall be typed or written in indelible ink and shall be signed by a person duly authorized to sign on behalf of the Bidder.

- 22.3 Any interlineation, erasure, or overwriting shall be valid only if it is signed or initialed by the person signing the Bid.

### **D Submission and Opening of Bids**

#### **23. Submission, Sealing and Marking of Bids**

- 23.1 Bidders may always submit their bids by mail or by hand. 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 13, 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 23.2 and 23.3.
  - (b) Bidders submitting bids electronically shall follow the electronic bid submission procedures specified in the **BDS**.
- 23.2 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 24.1;
  - (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 27.1.
- 23.3 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.

#### **24. Deadline for Submission of Bids**

- 24.1 Bids must be received by the Purchaser at the address and not later than the date and time **specified in the BDS**.
- 24.2 The Purchaser may, at its discretion, extend the deadline for the submission of bids by amending the Bidding Documents in accordance with ITB Clause 8, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall thereafter be subject to the deadline as extended.

- 25. Late Bids**
- 25.1 The Purchaser shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 24. Any bid received by the Purchaser after the deadline for submission of bids shall be declared late, rejected, and returned unopened to the Bidder.
- 26. Withdrawal, Substitution, and Modification of Bids**
- 26.1 A Bidder may withdraw, substitute, or modify its Bid after it has been submitted by sending a written notice in accordance with ITB Clause 23, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 22.2, (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 22 and 23 (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.
- 26.2 Bids requested to be withdrawn in accordance with ITB Sub-Clause 26.1 shall be returned unopened to the Bidders.
- 26.3 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.
- 27. Bid Opening**
- 27.1 The Purchaser shall conduct the bid opening in the presence of the Bidders’ representatives who choose to attend at the address, date and time **specified in the BDS**. Any specific electronic bid opening procedures required if electronic bidding is permitted in accordance with ITB Sub-Clause 23.1 shall be as **specified in the BDS**.
- 27.2 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. 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.

- 27.3 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 25.1.
- 27.4 The Purchaser shall prepare a record of the Bid opening that shall include, as a minimum: the name of the Bidder and whether there is a withdrawal, 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 or Bid-Securing Declaration, 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, and posted online when electronic bidding is permitted.

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

- 28. Confidentiality**
- 28.1 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.
- 28.2 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.
- 28.3 Notwithstanding ITB Sub-Clause 28.2, from the time of bid opening to the time of Contract Award, if any Bidder wishes to contact the Purchaser on any matter related to the bidding process, it should do so in writing.

- 29. Clarification of Bids**
- 29.1 To assist in the examination, evaluation, comparison and post-qualification of the bids, the Purchaser may, at its discretion, ask any Bidder for a clarification of its Bid. Any clarification submitted by a Bidder 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 31.
- 30. Responsiveness of Bids**
- 30.1 The Purchaser's determination of a bid's responsiveness is to be based on the contents of the bid itself.
- 30.2 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 a substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract; or
  - (b) limits in a 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.
- 30.3 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.
- 31. Nonconformities, Errors, and Omissions**
- 31.1 Provided that a Bid is substantially responsive, the Purchaser may waive any non-conformities or omissions in the Bid that do not constitute a material deviation.
- 31.2 Provided that a bid is substantially responsive, the Purchaser may request the Bidder to submit the necessary information or documentation, within a reasonable period of time, or to rectify nonmaterial nonconformities or omissions in the bid relating to documentation requirements. Such omission shall not be related to any aspect of the price of the Bid. Failure of the Bidder to comply with the request may result in the rejection of its Bid.
- 31.3 Provided that the Bid is substantially responsive, the Purchaser shall correct arithmetical errors on the following basis:
- (a) if there is a discrepancy between the unit price and the line item total that is obtained by multiplying the unit price by the quantity, the unit price shall prevail and the line

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

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

31.4 If the Bidder that submitted the lowest evaluated Bid does not accept the correction of errors, its Bid shall be rejected.

**32. Preliminary Examination of Bids**

32.1 The Purchaser shall examine the bids to confirm that all documents and technical documentation requested in ITB Clause 11 have been provided, and to determine the completeness of each document submitted.

32.2 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 12.1;
- (b) Price Schedules, in accordance with ITB Sub-Clause 12.2;
- (c) Bid Security or Bid Securing Declaration, in accordance with ITB Clause 21, if applicable.

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

33.1 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.

33.2 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.

33.3 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 30, it shall reject the Bid.

- 34. Conversion to Single Currency** 34.1 For evaluation and comparison purposes, the Purchaser shall convert all bid prices expressed in amounts in various currencies into an amount in a single currency **specified in the BDS**, using the selling exchange rates established by Bank of Mauritius and on the date **specified in the BDS**.
- 35. Margin of Preference** 35.1 For international bidding, domestic enterprises shall receive a margin of preference in the Bid Evaluation, as indicated in the Bid Data Sheet (BDS).
- For national bidding, domestic small and medium enterprises having an annual turnover not exceeding Rs 50 million shall receive a margin of preference as indicated in the Bid Data Sheet (BDS).
- 35.2 Bidders from the Republic of Mauritius shall provide the necessary evidence to prove that they meet the criteria set out in the BDS, to be eligible for the preference.
- 35.3 The following procedure shall be used to apply the margin of preference:
- (a) responsive bids shall be classified into the following groups:
    - Group A: bids offered by domestic enterprises and joint ventures meeting the eligibility criteria for international bidding or bids offered by eligible domestic small and medium enterprises for national bidding, and
    - Group B: all other bids; and
  - (b) for the purpose of further evaluation and comparison of bids only, all bids classified in Group B shall be increased by the percentage of preference allocated to those in group A.
- 36. Evaluation of Bids** 36.1 The Purchaser shall evaluate each bid that has been determined, up to this stage of the evaluation, to be substantially responsive.
- 36.2 To evaluate a Bid, the Purchaser shall use only the factors, methodologies and criteria defined in ITB Clause 36. No other criteria or methodology shall be permitted.
- 36.3 To evaluate a Bid, the Purchaser shall consider the following:

- (a) evaluation to be done for Items or Lots, as **specified in the BDS**; and the Bid Price as quoted in accordance with clause 14;
  - (b) price adjustment for correction of arithmetic errors in accordance with ITB Sub-Clause 31.3;
  - (c) price adjustment due to discounts offered in accordance with ITB Sub-Clause 14.4;
  - (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 35 if applicable.
- 36.4 (a) The Purchaser's evaluation of a bid shall include custom duties and other charges, local transportation and bank charges where applicable on the basis of delivery of goods to warehouse in Mauritius, excluding VAT payable.
- (b) It will however exclude and not take into account any allowance for price adjustment during the period of execution of the contract, if provided in the bid.
- 36.5 The Purchaser's evaluation of a bid may require the consideration of other factors, in addition to the Bid Price quoted in accordance with ITB Clause 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 36.3 (d).
- 36.6 If so **specified in the BDS**, these Bidding Documents shall allow Bidders to quote separate prices for one or more lots, and shall allow the Purchaser to award one or multiple lots to more than one Bidder. The methodology of evaluation to determine the lowest-evaluated lot combinations, is specified in Section III, Evaluation and Qualification Criteria.

- 37. Comparison of Bids** 37.1 The Purchaser shall compare all substantially responsive bids to determine the lowest-evaluated bid, in accordance with ITB Clause 36.
- 38. Postqualification of the Bidder** 38.1 The Purchaser shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive bid is qualified to perform the Contract satisfactorily.
- 38.2 The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 19.
- 38.3 An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the bid, in which event the Purchaser shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.
- 39. Purchaser's Right to Accept Any Bid, and to Reject Any or All Bids** 39.1 The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to Bidders.

## **F Award of Contract**

- 40. Award Criteria** 40.1 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.
- 41. Purchaser's Right to Vary Quantities at Time of Award** 41.1 At the time the Contract is awarded, the Purchaser reserves the right to increase or decrease the quantity of Goods and Related Services originally specified in Section V, Schedule of 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.
- 42. Notification of Award** 42.1 Following the identification of the successful bidder and subject to the notification and the time period referred to in accordance with section 40 of the Act for major contracts, the Public Body shall issue award to the selected Bidder. The award shall be made by means of a letter (hereinafter called the "Letter of Acceptance").

- 42.2 Until a formal Contract is prepared and executed, the letter of Acceptance shall constitute a binding Contract.
- 42.3 The Purchaser shall publish on its web site the 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 the request.
- 42.4 Upon the successful Bidder's furnishing the signed Contract Form and performance security pursuant to ITB Clause 44, the Purchaser will promptly notify each unsuccessful Bidder and will discharge its bid security, pursuant to ITB Clause 21.4.

**43. Signing of Contract**

- 42.1 Promptly after issue of Letter of Acceptance, the Purchaser shall send the successful Bidder the Agreement and the Special Conditions of Contract.
- 42.2 Within twenty-eight (28) days of receipt of the Agreement, the successful Bidder shall sign, date, and return it to the Purchaser.
- 42.3 Notwithstanding ITB 43.2 above, in case signing of the Contract Agreement is prevented by any export restrictions attributable to the Purchaser, 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 Purchaser that signing of the Contract Agreement has not been prevented by any lack of diligence on the part of the Bidder in completing any formalities, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the terms of the Contract.

**44. Performance Security**

- 44.1 Within twenty eight (28) days of the receipt of letter of Acceptance from the Purchaser, the successful Bidder, if required, shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section VIII Contract forms, or another Form acceptable to the Purchaser. The Purchaser 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 21.4.
- 44.2 Failure of the successful Bidder to submit the above-mentioned Performance Security or sign the Contract shall lead to the annulment of the award and forfeiture of the Bid Security or

execution of the Bid-Securing Declaration. 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.

ITB Clause Reference	A. General
ITB 1.1	The Purchaser is: <b>Ministry of Health and Quality of Life.</b>
ITB 1.1	The name and identification number of the OAB are: <b>Supply of Plastic Flasks and Containers and MHPQ/MDIS/JUL 09-DEC 09/Q6</b> The number, identification and names of the lots comprising this OAB are: <b>Not applicable.</b>
ITB 1.1	The name of the Project is: <b>Supply of Plastic Flasks and Containers</b>
ITB 2.2	The address to file challenge in respect of this procurement is: <b>The Senior Chief Executive 5<sup>th</sup> Floor, Ministry of Health &amp; Quality of Life Emmanuel Anquetil Building Port Louis Mauritius</b> The address to file application for review is: <b>The Chairman Independent Review Panel 1<sup>st</sup> Floor Stratton Court La Poudriere Street Port Louis</b>
ITB 4.3	A list of firms debarred from participating in Public Procurement in Mauritius is available at <a href="http://ppo.gov.mu">http://ppo.gov.mu</a>
	B. Contents of Bidding Documents
ITB7.1 <b>Clarification of bidding documents</b>	For <b>Clarification of bid purposes</b> only, the Purchaser's address is: <b>The Senior Chief Executive Attn. Mr. H. Hauroo Room No. 1006 Ministry of Health &amp; Quality of Life 10<sup>th</sup> Floor, Emmanuel Anquetil Building Port Louis Mauritius Telephone: 230 201 2174 Facsimile number: 230 210 7600 Electronic mail address: <b>Not applicable.</b> <b>The purchaser shall respond in writing to any request for clarifications, provided that such request is received by 30 September 2009 at latest.</b></b>

	<b>C. Preparation of Bids</b>
<b>ITB 11.1 (h)</b>	The Bidder shall submit the following additional documents in its bid: <b>Not Applicable.</b>
<b>ITB 13.1</b>	Alternative Bids <i>shall be</i> considered.
<b>ITB 14.5</b>	The Incoterms edition is: Incoterms 2000. Prices quoted shall be CIF/CFR. Ex-works or FOB will not be accepted.
<b>ITB 14.6 (i)</b>	Place of Destination: <i>Mauritius</i> Port of Destination: <b>Port Louis</b> <b>Agreed destination (Project/Site/Warehouse)</b> The Senior Chief Executive <b>Attn. Manager, (Procurement and Supply)</b> Central Supplies Division, Ministry of Health & Quality of Life Plaine Lauzun Port Louis
<b>ITB 14.6 (ii)</b>	Bids for imported goods and locally manufactured goods to be supplied by local bidders or manufacturers shall be in Mauritian Rupees on a delivery to warehouse basis exclusive of VAT. Contract shall be awarded on the basis of price excluding VAT and VAT shall become payable against Supplier's invoice, where applicable.
<b>ITB 14.7</b>	The prices quoted by the bidder shall not be adjustable during the contract period except for variation in exchange rate. In such cases the bidder shall indicate the base rate at time of submission of bid. Failure to do so, the bid will be considered as fixed and firm in Mauritian Rupees.
<b>ITB 14.8</b>	Prices quoted for each lot shall correspond at least to [insert figure] % of the items specified for each lot. <b>Not Applicable.</b>  Prices quoted for each item of a lot shall correspond at least to [insert figure] percent of the quantities specified for this item of a lot. <b>Not Applicable.</b>
<b>ITB 15.1</b>	The Bidder is not required to quote in the currency the portion of the bid price that corresponds to expenditures incurred in that currency.
<b>ITB 15.3</b>	Local Bidders are required to quote in Mauritian Rupees only. The prices may be adjustable to fluctuation in the rate of exchange. The bid price(s) shall be based on exchange rates effective 21 days prior to the deadline for submission of bids. The rate of exchange can be downloaded from the website of the Bank of Mauritius. The currency applicable for each item quoted for shall be specified by the bidder.  Bidders should submit prices as per the standard Price Schedule Forms contained in the Bidding Document failing which their bids shall be declared non-responsive

<b>ITB 18.3</b>	Period of time the Goods are expected to be functioning (for the purpose of spare parts): Not Applicable.
<b>ITB 19.1 (a)</b>	Manufacturer's authorization is not required.
<b>ITB 19.1 (b)</b>	After sales service is not required.
<b>ITB 20.1</b>	The bid validity period shall expire on <b>11 January 2010</b> .
<b>ITB 21.1</b>	No Bid Security is required.
<b>ITB 21.7</b>	If the bidder incurs any of the action prescribed in subparagraphs (a) or (b) of this provision, the Bidder may be declared ineligible to be awarded contracts by the Government of Mauritius for a period to be determined by the Procurement Policy Office.
<b>ITB 22.1</b>	In addition to the original of the bid, the number of copies is: <b>None</b>
	<b>D. Submission and Opening of Bids</b>
<b>ITB 23.1</b>	Bidders <b>shall not</b> have the option of submitting their bids electronically.
<b>ITB 23.1 (b)</b>	If bidders shall have the option of submitting their bids electronically, the electronic bidding submission procedures shall be: <b>Not Applicable</b> .
<b>ITB 23.2 (c)</b>	The inner and outer envelopes shall bear the following additional identification marks: (a) <b>the name and address of bidder;</b> (b) <b>the name and address of purchaser;</b> (c) <b>the name and identification number of the OAB; and</b> (d) <b>the closing date and time.</b>
<b>ITB 24.1</b>	For bid submission purposes, the Purchaser's address is: <b>The Senior Chief Executive,  Ministry of Health &amp; Quality of Life,  5<sup>th</sup> Floor, Emmanuel Anquetil Building,  SSR Street, Port Louis  Republic of Mauritius</b> The deadline for the submission of bids is: Date: <b>14 October 2009</b> Time: <b>up to 13.30 hours (local time) at latest</b>
<b>ITB 27.1</b>	The bid opening shall take place at:  <b>Ministry of Health &amp; Quality of Life,  5<sup>th</sup> Floor, Emmanuel Anquetil Building,  SSR Street, Port Louis  Republic of Mauritius</b>  Date: <b>14 October 2009</b> Time: <b>13.45 hours.</b>

<p><b>Correction of errors</b> <b>I.T.B 31.3(a)</b></p>	<p>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.</p>
<p><b>E. Evaluation and Comparison of Bids</b></p>	
<p><b>ITB 34.1</b></p>	<p>Bid prices expressed in different currencies by overseas bidders shall be converted in <b>Mauritian Rupees</b>.  The date for the exchange rate shall be 21 days prior to the closing date. The rate of exchange can be downloaded from <a href="http://bom.intnet.mu">http://bom.intnet.mu</a>.</p>
<p><b>ITB 35.1</b></p>	<p>The margin of preference shall be 15 % to domestic enterprises for international bidding, where the value of local inputs in respect of labour and/or materials account for at least 30 %.</p>
<p><b>ITB 35.2</b></p>	<p>Bidders eligible for domestic or small and medium enterprises preference shall submit, as part of their bidding document, details of their registration as enterprises within Mauritius, financial statements for the last three years, a cost structure of the goods in the format provided at section IV.</p>
<p><b>ITB 36.6</b></p>	<p><b>Bidders are allowed to quote for one or more items.</b></p>
<p><b>ITB 36.3 (a)</b></p>	<p><b>Evaluation will be done for each item and the contract will comprise the item(s) awarded to the successful bidder.</b></p>

<b>ITB 36.3(d)</b>	<p>The adjustments shall be determined using the following criteria, from amongst those set out in Section III, Evaluation and Qualification Criteria: [refer to Schedule III, Evaluation and Qualification Criteria; insert complementary details if necessary].</p> <p>(a) deviation in Delivery schedule: No.</p> <p>(b) deviation in payment schedule: No.</p> <p>(c) the cost of major replacement components, mandatory spare parts, and service: <b>Not Applicable</b>.</p> <p>(d) the availability in Mauritius of spare parts and after-sales services for the equipment offered in the bid. <b>Not Applicable</b>.</p> <p>(e) the projected operating and maintenance costs during the life of the Equipment: <b>Not Applicable</b></p> <p>(f) the performance and productivity of the equipment offered; <b>Not Applicable</b></p>
<b>ITB 39.1</b>	The purchaser reserves the right to split the contract itemwise or within an item.
	<b>F. Award of Contract</b>
<b>ITB 41.1</b>	The maximum percentage by which quantities may be increased is: 20%

## **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 referred to in this section or other acceptable wording, and delete the text in italics]*

### **Contents**

1. Evaluation Criteria (ITB 36.3 (d))
2. Multiple Contracts (ITB 36.6)
3. Postqualification Requirements (ITB 38.2)

**NOT APPLICABLE**

## 1. Evaluation Criteria (ITB 36.3 (d))

The Purchaser's evaluation of a bid may take into account, in addition to the Bid Price quoted in accordance with ITB Clause 14.6, one or more of the following factors as specified in ITB Sub-Clause 36.3(d) and in BDS referring to ITB 36.3(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 36.3(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 stipulates 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 36.3 (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 18.3, 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 18.3. 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 36.3(d), if quoted separately, shall be added to the bid price, for evaluation purposes only.

(e) Projected operating and maintenance costs.

An adjustment to take into account the operating and maintenance costs of the Goods will be added to the bid price, for evaluation purposes only, if specified in BDS Sub-Clause 36.3(d). The adjustment will be evaluated in accordance with the methodology specified in the BDS Sub-Clause 36.3(d).

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

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

**or**

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

(g) Desirable benefit for higher technical and performance level

When procuring certain type of goods such as personal computers (not of the complex type), the Purchaser may wish to request a minimum technical level for a specific criteria, but would prefer and is willing to award a premium for higher technical or performance level.

In these cases the Purchaser may choose a price adjustment system for those criteria where the added benefit is desirable. The Purchaser should however indicate the list items that would be considered for this evaluation and the methodology to apply for the comparison of the added benefit.

(h) Specific additional criteria

*Other specific additional criteria to be considered in the evaluation, and the evaluation method shall be detailed in BDS Sub-Clause 36.3(d) ]*

## **2. Multiple Contracts (ITB 36.6)**

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 (Section III, Sub-Section ITB 38.2 Post-Qualification Requirements)

The Purchaser shall:

- (a) evaluate only lots or contracts that include at least the percentages of items per lot and quantity per item as specified in ITB Sub Clause 14.8
- (b) take into account:
  - (i) the lowest-evaluated bid for each lot and
  - (ii) the price reduction per lot and the methodology for its application as offered by the Bidder in its bid.

## **3. Postqualification Requirements (ITB 38.2)**

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 38, 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]

Procurement No.: [insert reference number of bidding process]

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

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

Procurement No.: *[insert reference number of bidding process]*

1. Bidder's Legal Name: <i>[insert Bidder's legal name]</i>
2. JV's Party legal name: <i>[insert JV's Party legal name]</i>
3. JV's Party Country of Registration: <i>[insert JV's Party country of registration]</i>
4. JV's Party Year of Registration: <i>[insert JV's Party year of registration]</i>
5. JV's Party Legal Address in Country of Registration: <i>[insert JV's Party legal address in country of registration]</i>
6. JV's Party Authorized Representative Name: <i>[insert name of JV's Party authorized representative]</i> Address: <i>[insert address of JV's Party authorized representative]</i> Telephone/Fax numbers: <i>[insert telephone/fax numbers of JV's Party authorized representative]</i> Email Address: <i>[insert email address of JV's Party authorized representative]</i>
7. Attached are copies of original documents of: <i>[check the box(es) of the attached original documents]</i> <input type="checkbox"/> Articles of Incorporation or Registration of firm named in 2, above, in accordance with ITB Sub-Clauses 4.1 and 4.2. <input type="checkbox"/> In case of government owned entity from Mauritius, documents establishing legal and financial autonomy and compliance with commercial law, in accordance with ITB Sub-Clause 4.5.

## **Bid Submission Form**

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

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: \_\_\_\_\_ *[insert the number and issuing date of each Addendum];*
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services \_\_\_\_\_ *[insert a brief description of the Goods and Related Services];*
- (c) The total price of our Bid, excluding any discounts offered in item (d) below, is: \_\_\_\_\_ *[insert the total bid price in words and figures, indicating the various amounts and the respective currencies];*
- (d) The discounts offered and the methodology for their application are:

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

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

- (e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 20.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 24.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we undertake to obtain a Performance Security in accordance with ITB Clause 44 and GCC Clause 18 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries \_\_\_\_\_ *[insert the nationality of the Bidder,*

*including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality each subcontractor and supplier]*

- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.2;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractor or supplier for any part of the contract—have not been declared ineligible by an international financing agency such as the World Bank, African Development Bank or any other international agency or under the Laws of Mauritius or official regulations in accordance with ITB Sub-Clause 4.3;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid is payable 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

<b>Bidder's name and address:</b> ..... .....		Prices may be in Mauritian or foreign currency  Bid currency: .....			Date: .....  Procurement Ref. No: .....	
1	2	3	4	5	6	7
Line Item N°	Description of Goods and related services	Country of Origin	Delivery	Quantity and physical unit	*Unit price CFR/CIF [ <i>insert place of destination</i> ]	*CFR/CIF Price per line item (Col. 5 x 6)
*Delete as appropriate					<b>Total Bid Price</b>	

Name of Bidder: ..... Signature of Bidder: .....

Date: .....

**N.B. The price quoted shall be either CFR or CIF. Ex-works/FOB price shall not be accepted and the bid shall be declared non-responsive.**

**Price Schedule: Goods Manufactured outside Mauritius already imported**

<b>Bidder's name and address:</b> ..... .....				<b>Prices to be in Mauritian Rupees</b>				<b>Date:</b> _____	
								<b>Procurement Ref No:</b> _____	
1	2	3	4	5	6	7	8	9	10
Line Item N°	Description of Goods and related services	Country of Origin	Delivery	Quantity and physical unit	Unit price including Custom Duties and Import Taxes paid,	Price per line item inclusive of Custom Duties and Import Taxes paid, (col. 5x6)	Price per line item for inland transportation to convey the Goods to their final destination	VAT payable per line item if Contract is awarded	Total Price per line item (Col. 7+ 8) (DDP)
								Total Bid Price	

Prices are: fixed/adjustable to rate of exchange\*.

Rate of exchange: *(insert base rate)*

Percentage of price adjustable to exchange rate: *(percentage of col.7)*

Name of Bidder: ..... Signature of Bidder: .....

Date: .....

\*: *delete as appropriate*

**Price Schedule : Goods Manufactured in Mauritius**

<b>Bidder's name and address:</b> ..... .....			<b>Prices to be in Mauritian Rupees</b>				<b>Date:</b> _____ <b>Procurement Ref. No:</b> _____	
1	2	3	4	5	6	7	8	9
Line Item N°	Description of Goods and related services	Delivery	Quantity and physical unit	Unit price EXW	Total EXW price per line item (Col. 4x5)	Price per line item for inland transportation to convey the Goods to their final destination	VAT payable per line item if Contract is awarded	Total Price per line item (Col. 6+7)
<b>Total Bid Price</b>								

Prices are: fixed/adjustable to rate of exchange\* .

Rate of exchange: .....

Percentage of price adjustable to exchange rate: .....

Name of Bidder: ..... Signature of Bidder: .....

Date: .....

\*: delete as appropriate

## Price and Completion Schedule - Related Services

Currencies in accordance with ITB Sub-Clause 15					Date: _____ Procurement Ref. 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 Mauritius 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)
<b>Total Bid Price</b>						

Name of Bidder: ..... Signature of Bidder: .....

Date: .....

**Schedule 3: Cost Structure for Value Added  
Calculation per Product**

<b>COST STRUCTURE FOR VALUE ADDED CALCULATION PER PRODUCT</b>		
	Rs	Rs
<b>Raw Materials, Accessories &amp; Components</b>		
• Imported (CIF)	.....	.....
• Local (VAT & Excise Duty Free)	.....	.....
<b>Labour Cost</b>		
• Direct Labour	.....	.....
• Clerical Wages	.....	.....
• Salaries to Management	.....	.....
<b>Utilities</b>		
• Electricity	.....	.....
• Water	.....	.....
• Telephone	.....	.....
<b>Depreciation</b>	.....	.....
<b>Interest on Loans</b>	.....	.....
<b>Rent</b>	.....	.....
<b>Other (please specify)</b>		
• .....	.....	.....
• .....	.....	.....
• .....	.....	.....
<b>TOTAL COST</b>		

Local Value Added =  $\frac{\text{Total Cost} - \text{Cost of imported inputs}}{\text{Total Cost}} \times 100$

- The cost structure should be certified by a Certified Accountant

## **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).

**1. List of Goods with description & specifications and Delivery Schedule**

Line Item No	Description of Goods with specification	Physical Unit	Quantity	Bidder's offered (Compliance Specifications)	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) date		
						Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date (to be filled by the bidder)
1	Plastic flask with cap, volume 30 ml (To be packed in cartons of 1000 units, packet of 100)	Units	150,000		Central Supplies Division, Ministry of Health & Quality of Life, Plaine Lauzun, Port Louis	For local suppliers importing goods Delivery in 3 equal consignments at 5 months interval 1st consignment after 3 months as from date of issue of letter of award	For local suppliers importing goods Delivery in 3 equal consignments at 5 months interval. 1st consignment not later than 4 months as from date of issue of letter of award	
2	Plastic flask with cap, volume 60 ml (To be packed in cartons of 500 units, packet of 100)	Units	420,000					
3	Plastic flasks with cap, volume 100 ml (to be packed in cartons of 200 units, packet of 50)	Units	1,300,000					

Specifications for plastic flasks are as follows:-

- (a) Polyethylene food quality round cylindrical, fitted with plastic screw cap for packing liquid and semi solid medications for patient's use
- (b) Shape-round cylindrical and slightly domed at base to allow a better equilibrium. External diameter of the mouth should be 2.5cm; height of container should not be shorter than diameter.
- (c) Caps should be already screwed on delivery.
- (d) The polyethylene used in the manufacture of the flasks should be environment friendly.
- (e) On each carton the product description and quantity in the carton should be labeled and printed

**1. List of Goods with description & specifications and Delivery Schedule**

Line Item No	Description of Goods with specification	Physical Unit	Quantity	Bidder's offered (Compliance Specifications)	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) date		
						Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date (to be filled by the bidder)
4	Plastic flask with cap, volume 200 ml (To be packed in cartons of 100 units, packet of 25)	Units	360,000		Central Supplies Division, Ministry of Health & Quality of Life, Plaine Lauzun, Port Louis	For local suppliers importing goods Delivery in 2 equal consignments at 5 months interval 1 <sup>st</sup> consignment after 3 months as from date of issue of letter of award	For local suppliers importing goods Delivery in 2 equal consignments at 5 months interval 1 <sup>st</sup> consignment not later than 4 months as from date of issue of letter of award	
5	Plastic container with cap for ointment and cream, capacity 50gm. (To be packed in carton of 400 units)	Units	200,000					
6	Plastic container with cap for ointment and cream, capacity 100gm. (To be packed in cartons of 250 units)	Units	40,000					
7	Plastic container with cap for ointment and cream, capacity 200gm. (To be packed in cartons of 100 units)	Units	24,000					
						For local manufacturing firms, delivery to be effected in several consignments on an "as and when required basis" in consultation with user department		

**Specifications for Items 5-7**

- (a) Polyethylene food quality round cylindrical, fitted with plastic screw caps for packing of semi solid (creams and ointments) for patient's use.
- (b) Wide mouth container
- (c) Caps should be already screwed on delivery.
- (d) The polyethylene used in the manufacture of the containers should be environment friendly.
- (e) On each carton the product description and quantity in the carton should be labeled and printed.

**1. List of Goods with description & specifications and Delivery Schedule**

Line Item No	Description of Goods with specification	Physical Unit	Quantity	Bidder's offered (Compliance Specifications)	Final (Project Site) Destination as specified in BDS	Delivery (as per Incoterms) date		
						Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date (to be filled by the bidder)
8.	Plastic container for stool sterile, 25 ml.	units	30,000		Central Suppliers Division, Ministry of Health & Quality of Life, Plaine Lauzun, Port Louis	Delivery in 2 equal consignments 1st consignment after 3 months as from date of issue of letter of award  2nd consignment after 8 months as from date of issue of letter of award	Delivery in 2 equal consignments 1st consignment not later than 4 months as from date of issue of letter of award  2nd consignment not later than 9 months as from date of issue of letter of award	
9.	Threated plastic vial for ear/nose, volume 10-15ml.	units	50,000					
10.	DIN vial with dropper, glass type, volume 10 ml.	units	20,000					
11.	Plastic container with dropper for nasal and ear drop, volume 10 ml.	units	50,000					
12.	Threated vials, amber colour, complete with rubber stopper, volume 10-15 ml.	units	280,000					

## 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 <sup>1</sup>	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. If 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:

<b>Item No</b>	<b>Name of Goods or Related Service</b>	<b>Technical Specifications and Standards</b>
[insert item No]	[insert name]	[insert TS and Standards]

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]*

<b>List of Drawings</b>		
<b>Drawing Nr.</b>	<b>Drawing Name</b>	<b>Purpose</b>

**NOT APPLICABLE**

## **5. Inspections and Tests**

The following inspections and tests shall be performed: *[insert list of inspections and tests]*

**Not Applicable**

## **PART 3 – Contract**

# Section VI. General Conditions of Contract

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## Section VI. General Conditions of Contract

### 1. Definitions

- 1.1 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” means the entity purchasing the Goods and Related Services, as specified in the SCC.
  - (i) “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.
  - (j) “SCC” means the Special Conditions of Contract.
  - (k) “Subcontractor” means any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier.

- (l) “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.
- (m) “The Project Site,” where applicable, means the place named in the SCC.

## **2. Contract Documents**

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

## **3. Fraud and Corruption**

- 3.1 If the Purchaser determines that the Supplier has engaged in corrupt, fraudulent, collusive, coercive or obstructive practices, in competing for or in executing the Contract, then the Purchaser may, after giving 14 days notice to the Supplier, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 35 shall apply as if such expulsion had been made under Sub-Clause 35.1.

- (a) For the purposes of this Sub-Clause:
  - (i) “corrupt practice”<sup>1</sup> is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
  - (ii) “fraudulent practice”<sup>2</sup> is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;
  - (iii) “collusive practice”<sup>3</sup> is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;

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<sup>1</sup> “another party” refers to a public official acting in relation to the procurement process or contract execution]. In this context, “public official” includes employees of other organizations taking or reviewing procurement decisions.

<sup>2</sup> a “party” refers to a public official; the terms “benefit” and “obligation” relate to the procurement process or contract execution; and the “act or omission” is intended to influence the procurement process or contract execution.

<sup>3</sup> “parties” refers to participants in the procurement process (including public officials) attempting to establish bid prices at artificial, non competitive levels.

- (iv) “coercive practice”<sup>4</sup> is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- (v) “obstructive practice” is
  - (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or
  - (bb) acts intended to materially impede the exercise of the Purchaser’s inspection and audit rights.

3.2 Should any employee of the Supplier be determined to have been engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice during the purchase of the Goods, then that employee shall be removed.

#### **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 hereunder shall be as prescribed by Incoterms.
- (b) The terms EXW, CIP, FCA, CFR and other similar terms, when used, shall be governed by the rules prescribed in the current edition of Incoterms specified in the **SCC** and published by the International Chamber of Commerce in Paris, France.

4.3 Entire Agreement

The Contract constitutes the entire agreement between the Purchaser and the Supplier and supersedes all communications,

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<sup>4</sup> a “party” refers to a participant in the procurement process or contract execution.

negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.

#### 4.4 Amendment

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

#### 4.5 Non-waiver

- (a) Subject to GCC Sub-Clause 4.5(b) below, no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.
- (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorized representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

#### 4.6 Severability

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

### **5. Language**

- 5.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Purchaser, shall be in English. 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.
- 5.3 Notwithstanding the above, documents in French submitted with the bid may be accepted without translation.

- 6. Joint Venture, Consortium or Association**
- 6.1 If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.
- 7. Eligibility**
- 7.1 The Supplier and its Subcontractors shall have the nationality of an eligible country. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of that country.
- 7.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries. For the purpose of this Clause, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.
- 8. Notices**
- 8.1 Any notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the **SCC**. The term “in writing” means communicated in written form with proof of receipt.
- 8.2 A notice shall be effective when delivered or on the notice’s effective date, whichever is later.
- 9. Governing Law**
- 9.1 The Contract shall be governed by and interpreted in accordance with the laws of 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 money due the Supplier.

**11. Inspections and Audit**

11.1 The Supplier shall permit the Purchaser and/or persons appointed by the Purchaser to inspect the Supplier's offices and/or the accounts and records of the Supplier and its sub-contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors appointed by the Purchaser if required by the Purchaser. Any act intended to materially impede the exercise of the Purchaser's inspection and audit constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility under the Act).

**12 Scope of Supply**

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

**13 Delivery and Documents**

13.1 Subject to GCC Sub-Clause 33.1, the Delivery of the Goods and Completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements. The details of shipping and other documents to be furnished by the Supplier are specified in the **SCC**.

**14 Supplier's Responsibilities**

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

**15 Contract Price**

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

**16 Terms of Payment**

16.1 The Contract Price, including any Advance Payments, if applicable, shall be paid as specified in the **SCC**.

16.2 The Supplier's request for payment shall be made to the

Purchaser in writing, accompanied by invoices describing, as appropriate, the Goods delivered and Related Services performed, and by the documents submitted pursuant to GCC Clause 13 and upon fulfillment of all other obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or request for payment by the Supplier, and after the Purchaser has accepted it.

16.4 The currencies in which payments shall be made to the Supplier under this Contract shall be made subject to the following general principle:

(a) payment will be made in the currency or currencies in which the the bid price is expressed.

(b) Local bidders will be paid in fixed Mauritian Rupees or Mauritian rupees adjusted to the fluctuation in the rate exchange at the time of delivery, as specified in the SCC.

16.5 In the event that the Purchaser fails to pay the Supplier any payment by its due date or within the period set forth in the SCC, the Purchaser shall pay to the Supplier interest on the amount of such delayed payment at the rate shown in the SCC, for the period of delay until payment has been made in full, whether before or after judgment or arbitrage award.

## **17 Taxes and Duties**

17.1 For goods manufactured outside Mauritius, the Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Mauritius.

17.2 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.

17.3 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.

## **18 Performance Security**

18.1 If required as specified in the SCC, the Supplier shall, within twenty-eight (28) days of the notification of contract award, provide a performance security for the performance of the Contract in the amount specified in the SCC.

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

## **19 Copyright**

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

## **20 Confidential Information**

- 20.1 The Purchaser and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Purchaser to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 20.
- 20.2 The Purchaser shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Purchaser for any purpose other than the performance of the Contract.
- 20.3 The obligation of a party under GCC Sub-Clauses 20.1 and

20.2 above, however, shall not apply to information that:

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

20.4 The above provisions of GCC Clause 20 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

20.5 The provisions of GCC Clause 20 shall survive completion or termination, for whatever reason, of the Contract.

## **21 Subcontracting**

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

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

## **22 Specifications and Standards**

22.1 Technical Specifications and Drawings

- (a) The Goods and Related Services supplied under this Contract shall conform to the technical specifications and standards mentioned in Section 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 33.

**23 Packing and Documents**

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

**24 Insurance**

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

**25 Transportation**

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

**26 Inspections and Tests**

- 26.1 The Supplier shall at its own expense and at no cost to the Purchaser carry out all such tests and/or inspections of the Goods and Related Services as are specified in the **SCC**.
- 26.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods' final destination, or in another place in Mauritius as specified in the **SCC**. Subject to GCC Sub-Clause 26.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.
- 26.3 The Purchaser or its designated representative shall be entitled

to attend the tests and/or inspections referred to in GCC Sub-Clause 26.2, provided that the Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.

- 26.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Purchaser. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Purchaser or its designated representative to attend the test and/or inspection.
- 26.5 The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 26.6 The Supplier shall provide the Purchaser with a report of the results of any such test and/or inspection.
- 26.7 The Purchaser may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the specifications at no cost to the Purchaser, and shall repeat the test and/or inspection, at no cost to the Purchaser, upon giving a notice pursuant to GCC Sub-Clause 26.4.
- 26.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Purchaser or its representative, nor the issue of any report pursuant to GCC Sub-Clause 26.6, shall release the Supplier from any warranties or other obligations under the Contract.
- 27.1 Except as provided under GCC Clause 32, if the Supplier fails to deliver any or all of the Goods by the date(s) of delivery or perform the Related Services within the period specified in the Contract, the Purchaser may without prejudice to all its other remedies under the Contract, deduct from the Contract Price,

## **27 Liquidated Damages**

as liquidated damages, a sum equivalent to the percentage specified in the **SCC** of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those **SCC**. Once the maximum is reached, the Purchaser may terminate the Contract pursuant to GCC Clause 35.

## **28 Warranty**

- 28.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.
- 28.2 Subject to GCC Sub-Clause 22.1(b), the Supplier further warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in Mauritius.
- 28.3 Unless otherwise specified in the **SCC**, the warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the **SCC**, or for eighteen (18) months after the date of shipment from the port or place of loading in the country of origin, whichever period concludes earlier.
- 28.4 The Purchaser shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Purchaser shall afford all reasonable opportunity for the Supplier to inspect such defects.
- 28.5 Upon receipt of such notice, the Supplier shall, within the period specified in the **SCC**, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 28.6 If having been notified, the Supplier fails to remedy the defect within the period specified in the **SCC**, the Purchaser may proceed to take within a reasonable period such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

## **29 Patent Indemnity**

- 29.1 The Supplier shall, subject to the Purchaser's compliance with GCC Sub-Clause 29.2, indemnify and hold harmless the Purchaser and its employees and officers from and against any and all suits, actions or administrative proceedings, claims,

demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Purchaser may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract by reason of:

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

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

- 29.2 If any proceedings are brought or any claim is made against the Purchaser arising out of the matters referred to in GCC Sub-Clause 29.1, the Purchaser shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Purchaser's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.
- 29.3 If the Supplier fails to notify the Purchaser within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Purchaser shall be free to conduct the same on its own behalf.
- 29.4 The Purchaser shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.
- 29.5 The Purchaser shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right

registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Purchaser.

**30 Limitation of Liability**

- 30.1 Except in cases of criminal negligence or willful misconduct,
- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and
  - (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the supplier to indemnify the purchaser with respect to patent infringement

**31 Change in Laws and Regulations**

- 31.1 Unless otherwise specified in the Contract, if after the date of 28 days prior to date of Bid submission, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Mauritius (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 15.

**32 Force Majeure**

- 32.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 32.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such

events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

32.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

### **33 Change Orders and Contract Amendments**

33.1 The Purchaser may at any time order the Supplier through notice in accordance GCC Clause 8, to make changes within the general scope of the Contract in any one or more of the following:

- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
- (b) the method of shipment or packing;
- (c) the place of delivery; and
- (d) the Related Services to be provided by the Supplier.

33.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or in the Delivery/Completion Schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this Clause must be asserted within twenty-eight (28) days from the date of the Supplier's receipt of the Purchaser's change order.

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

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

### **34 Extensions of Time**

34.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding

timely delivery of the Goods or completion of Related Services pursuant to GCC Clause 13, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the parties by amendment of the Contract.

34.2 Except in case of Force Majeure, as provided under GCC Clause 32, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 26, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 34.1.

### **35 Termination**

35.1 Termination for Default

- (a) The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part:
  - (i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 34;
  - (ii) if the Supplier fails to perform any other obligation under the Contract; or
  - (iii) if the Supplier, in the judgement of the Purchaser has engaged in fraud and corruption, as defined in GCC Clause 3, in competing for or in executing the Contract.
- (b) In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Clause 35.1(a), the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Purchaser for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

35.2 Termination for Insolvency.

- (a) The Purchaser may at any time terminate the Contract by

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

35.3 Termination for Convenience.

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

**36 Assignment**

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

**37 Export  
Restriction**

- 37.1 Notwithstanding any obligation under the Contract to complete all export formalities, any export restrictions attributable to the Purchaser, to 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 that it has completed all formalities in a timely manner, including applying for permits, authorizations and licenses necessary for the export of the products/goods, systems or services under the

terms of the Contract. Termination of the Contract on this basis shall be for the Purchaser's convenience pursuant to Sub-Clause 35.3.

## 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.

<b>GCC 1.1(h)</b>	The Purchaser is: <b>Ministry of Health &amp; Quality of Life</b>
<b>GCC 1.1(m)</b>	<b>The Final Destination is: The Senior Chief Executive Attn. Manager, (Procurement and Supply) Central Supplies Division, Ministry of Health &amp; Quality of Life Plaine Lauzun, Port Louis</b>
<b>GCC 4.2 (a)</b>	The meaning of the trade terms shall be as prescribed by Incoterms.
<b>GCC 4.2 (b)</b>	The version edition of Incoterms shall be <b>Incoterms 2000</b>
<b>GCC 8.1</b>	For <u>notices</u> , the Purchaser's address shall be:  The Senior Chief Executive <b>Attn. Mr. H. Hauroo</b> Room No. 1006 <b>Ministry of Health &amp; Quality of Life, 10<sup>th</sup> Floor, Emmanuel Anquetil Building, SSR Street Port Louis Republic of Mauritius Telephone No. 230 201 2174 Facsimile No. 230 210 7600</b>
<b>GCC 10.2</b>	The rules of procedure for arbitration proceedings pursuant to GCC Clause 10.2 shall be as follows:  (a) Contract with foreign Supplier:  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.  (b) Contracts with Supplier national of the Purchaser's country:  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><b>Delivery and Documents</b></p> <p><b>GCC 13.1</b></p>	<p>The supplies are to be delivered as follows:</p> <p><b><u>Items 1 to 7</u></b></p> <p><b><u>For local suppliers importing from abroad.</u> In two equal consignments at 5 months interval:</b></p> <p><b>1<sup>st</sup> consignment to be delivered within 3 to 4 months as from date of issue of letter of award; and</b></p> <p><b>2<sup>nd</sup> consignment to be delivered within 8 to 9 months as from date of issue of letter of award.</b></p> <p><b><u>For local manufacturing firms, delivery to be effected in several consignments on an “as and when required basis” in consultation with user department.</u></b></p> <p><b><u>Items 8 to 12: Two equal consignments at 5 months interval.</u></b></p> <p><b>1<sup>st</sup> consignment to be delivered within 3 to 4 months as from date of issue of letter of award; and</b></p> <p><b>2<sup>nd</sup> consignment to be delivered within 8 to 9 months as from date of issue of letter of award.</b></p>
<p><b>GCC 15.1</b></p>	<p>The prices charged for the goods supplied and the related services by the Bidder shall not be adjustable during the contract period except for variation in exchange rate.</p>
<p><b>GCC 16.4 (b)</b></p>	<p>Local Suppliers shall be paid in Mauritian Rupees only. Price quoted in Mauritian Rupees shall be adjustable to the rate of exchange at the time of delivery, if so opted by the bidder in his bid submission.</p>
<p><b>GCC 16.5</b></p>	<p>Interest shall be payable immediately after the due date for payment.</p> <p>The interest rate shall be the legal rate.</p>
<p><b>Performance Security</b></p> <p><b>GCC 18.1</b></p>	<p>A Performance Security <b>shall be required.</b></p> <p>Performance Security shall be: <b>10% of the total contract value.</b></p> <p>The Performance Security shall be in the form of a Bank Guarantee as per Performance Security sample form at <b>Page 86.</b></p>
<p><b>Performance Security</b></p> <p><b>GCC 18.3</b></p>	<p>The Performance Security shall be denominated <b>in the currencies of payment of the Contract, in accordance with their portions of the Contract Price.</b></p>

<b>GCC 18.4</b>	Discharge of the Performance Security shall take place <b>not later than 28 (twenty-eight) days following the completion of the supplier's performance under the contract to the satisfaction of the Purchaser.</b>
<b>GCC 23.2</b>	The packing, marking and documentation within and outside the packages shall be: <b>cartons or bales, whichever are most appropriate.</b> <b>The markings inside are:</b> <b>NOT FOR SALE – MOH &amp; QL</b>  <b>The markings outside are:</b> <b>Senior Chief Executive</b> <b>Attn: Manager (Procurement and Supply)</b> <b>Ministry of Health &amp; Quality of Life</b> <b>Central Supplies Division</b> <b>Plaine Lauzun</b> <b>Republic of Mauritius</b>
<b>GCC 24.1.</b>	The insurance coverage shall be as specified in the Incoterms.
<b>GCC 25.1</b>	Responsibility for transportation of the Goods shall be as specified in the Incoterms.
<b>GCC 26.1</b>	The inspections and tests shall be: <b>Not applicable.</b>
<b>GCC 27.1.</b>	The liquidated damage shall be <b>0.5%</b> per week of delay for amount of undelivered goods
<b>GCC 27.1</b>	The maximum amount of liquidated damages shall be <b>10%</b> of the final contract price of undelivered goods.
<b>GCC 28.3 Shelf life</b>	Shelf life for all items should be at least <b>18 months</b> as from date of delivery of each consignment
<b>GCC 28.5</b>	The period for repair or replacement shall be: <b>Not applicable.</b>
<b>Currency of Bids</b>	Local suppliers shall quote in Mauritian Rupees only
<b>Payment 16.1</b>	Payment to local suppliers shall be effected in Mauritian rupees.
<b>Validity of offer</b>	The offer shall remain valid for <b>90 days</b> or as otherwise extended.
<b>Bid Submission Form</b>	The Bid submission form shall be duly filled, signed and submitted with the bid, failing which the bid shall be rejected.
<b>Stock out</b>	In case of stock out resulting from non-compliance to delivery schedule and until the order is executed, the Ministry reserves the right to make alternative arrangements for the procurement of the item and any excess expenditure incurred will be deducted from any amount due or which may become due to the contractor.

<b>Samples</b>	<p>(I) 6 units of samples free of charge for all items shall be submitted along with bid (sealed and with supplier's name and address, bid number and closing date clearly written on outside envelope/packing) at the address mentioned below not later than the closing date of bid.</p> <p><b>Senior Chief Executive Ministry of Health &amp; Quality of Life, 5<sup>th</sup> Floor, Emmanuel Anquetil Building, SSR Street, Port Louis</b></p> <p>(II) The samples should be delivered Duty Paid (DPP).</p> <p>(III) The following information regarding samples shall be provided:</p> <p>(i) Name and address of manufacturer, and</p> <p>(ii) Country of origin and make.</p> <p>(IV) Non-submission of samples shall entail automatic disqualification.</p> <p>(V) Samples submitted for evaluation purpose, shall be similar in terms of make/manufacturer's name/origin/size etc. as proposed in your bid. Any discrepancy between samples and offer shall lead to the automatic non-consideration of the item concerned.</p> <p>(VI) Bidders are requested to indicate clearly the Ministry's item number under reference in any Leaflet/Catalogue/Brochure submitted.</p> <p>(VII) Bidders should also submit, together with their bids, a list indicating the item numbers, descriptions and quantity in respect of samples they are forwarding for evaluation purpose.</p> <p>(VIII) Samples received after the closing date and time shall not be considered.</p>
<b>Minimum order value</b>	<p>The supplier is requested to indicate the minimum order value, if any.</p>
<b>Minimum order quantity</b>	<p>The supplier is requested to indicate the minimum order quantity, if any.</p>
<b>Customs Duty and VAT</b>	<p>The rate of import customs duty and VAT applicable are:</p> <p>Customs Duty: Items 1 to 12        - 0 %</p> <p>VAT : Items 1 to 12                 - 15 %</p>

# Section VIII Contract 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]*

## 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)<sup>5</sup> in figures and words]* upon receipt by us of your first demand in writing declaring the Supplier to be in default under the Contract, without cavil or argument, or your needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This Guarantee shall expire no later than the *[insert number]* day of *[insert month]* *[insert year]*,<sup>6</sup> and any demand for payment under it must be received by us at this office on or before that date.

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

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

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<sup>5</sup> 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.

<sup>6</sup> 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."

**BID SUMMARY SHEET**

Total Price Quoted: .....

No. of items quoted: .....

Indicate whether full or partial bid: .....

Name of Supplier: .....

Address of Supplier: .....

Tel No. ....

Fax No. ....

Signature of Supplier: .....

Date: .....

# **Procurement of Plastic Flasks and Containers**

**MHPQ/MDIS/Jul09-Dec09/Q6**

To: The Senior Chief Executive, Ministry of Health & Quality of Life

Kindly note that we have downloaded the Bidding Document for **Plastic Flasks and Containers MHPQ/MDIS/Jul09-Dec09/Q6** for the Ministry of Health & Quality of Life, Mauritius

2. We intend to participate.

**Name of firm:** .....

**Name of Contact Person:** .....

**Mail Address:** .....

**E-mail Address:** .....

**Fax No:** .....

**Tel No:** .....

**Signature** .....

**MINISTRY OF HEALTH AND QUALITY OF LIFE**  
**INVITATION FOR BIDS**  
**Authorised under section 16 of the Public Procurement Act 2006**  
**SUPPLY OF PLASTIC FLASKS AND CONTAINERS**  
**(Annual Requirements 2010)**  
**OAB No. MHPQ/MDIS/Jul 09-Dec09/Q6**

Bids on appropriate forms are invited from local firms for the supply of **Plastic flasks and containers (Annual Requirements 2010)**.

2. Other details of the requirements and conditions are contained in the bidding documents.
3. The bidding documents may be collected on working days during office hours on application to the:

**Ministry of Health and Quality of Life**  
**10<sup>th</sup> Floor, Emmanuel Anquetil Building**  
**SSR Street, Port Louis**

4. The bidding documents are also available free of charge on the web site of the Ministry of Health & Quality of Life at <http://health.gov.mu>. Kindly note that an acknowledgement downloadable form is available together with the downloadable bidding documents. Once the bidding documents have been downloaded, the form has to be filled in and submitted by mail or fax to:-

**The Senior Chief Executive**  
**Ministry of Health and Quality of Life**  
**Attn: Manager, Procurement & Supply**  
**10<sup>th</sup> Floor, Emmanuel Anquetil Building,**  
**SSR Street, Port Louis**  
**Republic of Mauritius**  
**Fax No: 211 6850/211 6864**

5. Any clarifications sought by any bidder in respect of the items to be procured shall be addressed in writing to the Senior Chief Executive, Ministry of Health and Quality of Life, **Attn: Manager, Procurement & Supply**, 10<sup>th</sup> Floor, Emmanuel Anquetil Building, Port Louis, Fax No. : 2116850/2116864 so as to reach him **at least fourteen (14) days** before the deadline for the submission of bids.

6. Bids in sealed envelope clearly marked "**Supply of Plastic flasks and containers. (Annual Requirements 2010) (MHPQ/MDIS/Jul09-Dec09/Q6) Ministry of Health & Quality of Life**" and indicating the closing date should be addressed to the Senior Chief Executive, 5<sup>th</sup> Floor, Emmanuel Anquetil Building, Port Louis, and should be deposited in the Tender Box situated at the under-mentioned address or sent by Courier Service or Registered Mail so as to reach the Senior Chief Executive, Ministry of Health and Quality of Life at the under-mentioned address on or before **14 October 2009 up to 1330 hours (local time) at latest.**

**Ministry of Health and Quality of Life**  
**5<sup>th</sup> Floor, Emmanuel Anquetil Building,**  
**SSR Street, Port Louis**  
**Republic of Mauritius**

7. Bids will be opened publicly in the Conference Room of the Ministry of Health and Quality of Life on **the same day at 13.45 hrs**, in the presence of bidders'/ bidders' representatives who choose to attend.
8. The Ministry of Health & Quality of Life reserves the right :
  - (a) to accept or reject any bid;
  - (b) to split the contract itemwise or within an item; and
  - (c) to annul the bidding process and reject all bids at any time prior to award of contract as per provision of section 39(1) of the Public Procurement Act 2006.

**Ministry of Health and Quality of Life**  
**Emmanuel Anquetil Building**  
**Port Louis**

07 September 2009