**Government of Jamaica**

PUBLIC PROCUREMENT STANDARD BIDDING DOCUMENT

**ANNEX G8**

**Procurement of Goods**

**National Competitive Bidding**

**(NCB)**

**Two Stage Bidding**

April 2019

**Foreword**

This standard bidding document (SBD) for the “Procurement of Goods” has been prepared by the Ministry of Finance (MOF). Its use is mandatory for the procurement of Goods where participation is limited to National bidders (Two-Stage Bidding).

This SBD shall at all times be read in conjunction with the Public Procurement Act and Regulations. Further edits to ensure compliance with the Act may be required by the Procuring Entity.

Those wishing to submit comments or questions on this document or to obtain additional information should contact:

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Jamaica

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BIDDING DOCUMENTS

Issued on: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**for**

**Procurement of**

*[insert goods]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Ref No:** *[insert Procurement Number]*

**Procuring entity:** *[insert name of procuring entity]*

**Abbreviations and Acronyms**

Act Public Procurement Act, 2015

BDS Bid Data Sheet

Commission Public Procurement Commission

e-GP electronic Government Procurement System

GCC General Conditions of contract

GoJ Government of Jamaica

ICB International Competitive Bidding

ITB Instructions to bidders

JV Joint Venture

MOF Ministry of Finance

Office Office of Public Procurement Policy

regulations The Public Procurement Regulations

SBD Standard Bidding Document

SCC Special Conditions of contract

TAJ Tax Administration Jamaica

TCL Tax Compliance Letter

UNCITRAL United Nations Commission on International Trade Law

VAT Value Added Tax

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Part I – Bidding Procedures

# Section I. Instructions to Bidders

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**Instructions to bidders (ITB)**

A. General

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| --- |
| 1. Scope of Bid    1. The procuring entity **specified in the Bidding Data Sheet (BDS),** issues these standard bidding documents (SBD) for the supply of goods thereto as specified in Section V, Schedule of Requirements. The name and identification number of this international competitive bidding (ICB) procurement are **specified in the BDS.** The name, identification, and number of lots are **provided in the BDS.**    2. Throughout this SBD**:**  the term “in writing” means a communication in hand or machine written type and includes messages by facsimile, e-mail and other electronic forms of communications with proof of receipt.“Electronic communications” means the transfer of information using electronic or similar media and the recording of information using electronic media.if the context so requires, “singular” means “plural” and vice versa; and“day” means calendar day.  * 1. Bidding will be conducted either in hard copy or using the electronic Government Procurement (GOJEP) System as **specified in the BDS**. |
| 1. Source of Funds    1. The procuring entity has received public funds toward the cost of the project named in the **BDS** for the execution of this procurement. |
| 3.  Fraud, Corruption and Other Prohibited Practices   * 1. The Government of Jamaica requires that all parties involved in the procurement proceedings and execution of such contracts observe the highest standard of ethics.   2. For the purposes of this provision, offences of fraud and corruption are defined in Part VII of the Public Procurement Act, 2015 (Act) and any other Act relating to corrupt activities in Jamaica.   3. A person who commits an offence under the Act or any other Act relating to corrupt activities in Jamaica shall ---      1. be liable for conviction under the provisions of the Act or any other Act relating to corrupt activities in Jamaica;      2. have their bid rejected if it is determined that the bidder is not in compliance with the provisions of the Act, the regulations or any other Act relating to corrupt activities in Jamaica;      3. risk other sanctions provided for in the Act or the regulations.   3.4 Furthermore, bidders shall be aware of the provision stated in Sub-Clause 34.1 (a) (iii) of the General Conditions of Contract |
| 1. Eligible bidders   4.1 In accordance with the Public Procurement Regulations, 2018, Section 17, bidders shall have to demonstrate that they have paid all taxes, duties, fees and other impositions as may be levied in Jamaica at the time of bid submission.  4.2 In accordance with the Public Procurement Regulations, 2018, Section 17, bidders shall have to demonstrate compliance with Section 15 of the Act at the time of bid submission.  4.3 Bidders shall provide such evidence of their continued eligibility as the procuring entity may reasonably request.     1. **Disqualified Bidders**    1. Failure to directly **obtain** the bidding documents from the procuring entity will result in d**isqualification from the procurement proceedings.**    2. A bidder shall not have a conflict of interest. All bidders found to have a conflict of interest shall be disqualified. Bidders may be considered to have a conflict of interest with one or more parties in this bidding process, if they are or have been associated in the past, with a firm or any of its affiliates which have been engaged by the procuring entity to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this bidding document; or that has been hired (or is proposed to be hired) by the procuring entity as Project Manager for the Contract.    3. A bidder that is ineligible in accordance with ITB Clause 3, at the date of contract award, shall be disqualified.    4. A Bidder falling in any of the disqualification grounds in sections 18 and 19 of The Public Procurement Regulations 2018 shall be disqualified. 2. Eligible goods and related services |
| * 1. The term “goods” means (a) things of every kind and description, whether tangible or intangible, including (i) commodities, agricultural crops, raw materials, products and equipment; (ii) matter in solid, liquid or gaseous form; and (b) services incidental to the supply of such things.   2. For the purpose of this Clause, origin means, but is not limited to, the country where the goods have been grown, mined, cultivated, produced, manufactured, processed or services provided; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components. |
| 1. Qualifications of the bidder    1. By submission of documentary evidence in its bid, the bidder must establish to the procuring entity’s satisfaction:   (a) that it continues to meet the qualification criteria. The bidder shall, as part of its bid, update any information submitted with its application for Initial Selection;  (b) that for all powered (active) hardware and/or components of the goods which the bidder does not itself produce, the bidder must be duly authorized by the producer to supply those components in the procuring entity’s country under the contract(s) that may result from this procurement. This must be documented by including Manufacturer’s Authorizations in the bid (based on the sample found in the Sample Bidding Forms in Section IV.);  (c) that if a bidder proposes Subcontractors for design, implementation, data conversion, training, warranty repair, maintenance and/or technical support (or other such key services) the bidder must document that these Subcontractors have agreed in writing to serve for the bidder under the contract(s) that may result from this procurement by including Subcontractor Agreement in the bid (based on the sample found in the Sample Bidding Forms in Section IV.); and  (d) that, in the case of a bidder not doing business within Jamaica, the bidder is or will be (if awarded the contract) represented by an Agent who is equipped and able to carry out / manage the bidder’s maintenance, technical support, training, and warranty repair obligations Technical Requirements (including any response time, problem-resolution norms or other aspects that may be specified in the contract).   * 1. If a bidder intends to subcontract major items of supply or services, it shall include in the bid details of the name and nationality of the proposed Subcontractor for each of those items and shall be responsible for ensuring that any Subcontractor proposed complies with the requirements of ITB 4, and that any goods or services components of the goods to be provided by the Subcontractor comply with the requirements of ITB 5 and the related evidence required by ITB 13.1 (c) (iii) and/or 28.2 (d) (ii) is submitted. bidders are free to list more than one Subcontractor against each item. Quoted rates and prices will be deemed to apply, whichever Subcontractor is appointed, and no adjustment of the rates or prices will be permitted. The procuring entity reserves the right to delete any proposed Subcontractor from the list. This shall be done prior to contract signature, by deleting such unacceptable Subcontractors from Appendix 3 to the Contract Agreement, which shall list the approved Subcontractors for each item prior to contract signature. Subsequent additions and deletions from the list of approved Subcontractors shall be performed in accordance with GCC Clause 22 (as revised in the SCC, if applicable) and Appendix 3 to the Contract Agreement. For the purposes of these bid documents, a Subcontractor is any vendor or service provider with whom the bidder contracts for the supply or execution of any part of the goods to be provided by the bidder under the contract (such as the supply of major components or the performance of related services, e.g., development, transportation, installation, customization, integration, commissioning, training, technical support, maintenance, repair, etc.). |
| B. Contents of Bidding Documents |
| 1. Sections of Bidding Documents    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 10.   **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. Requirements of the goods including * Technical Requirements * Implementation Schedule * Inventory Tables * Background and Informational Materials   **PART 3 contract**   * Section VI. General Conditions of Contract (GCC) * Section VII. Special Conditions of Contract (SCC) * Section VIII. Contract Forms |
| * 1. “Bidding documents” means the SBD developed and prescribed by the Office of Public Procurement Policy (Office) for use in public procurement proceedings and all amendments made to the document for the purposes of a procuring entity and documents attached or incorporated by reference, that individually or collectively      1. invite bids;      2. establish the objects of a bid;      3. specify the conditions of a proposed procurement contract; and      4. establish the applicable bidding procedures.   2. Unless obtained directly from the procuring entity, the procuring entity is not responsible for the completeness of the bidding documents and their addenda.   3. The bidder is expected to examine all instructions, forms, terms, and specifications in the bidding documents. Failure to furnish all mandatory information or documentation required by the bidding documents shall result in the rejection of the bid.   8. Pre-bid meeting and site visit   * 1. The bidder may wish to visit and examine the site(s) of the project and obtain for itself, at its own responsibility and risk, all information that may be necessary for preparing the bid and entering into the contract. The costs of visiting the site(s) shall be at the bidder’s own expense.   2. The procuring entity will arrange for the bidder and any of its personnel or agents to gain access to the relevant site(s), provided that the bidder gives the procuring entity adequate notice of a proposed visit of at least fourteen (14) days. Alternatively, the procuring entity may organize a site visit or visits concurrently with a pre-bid meeting, if one is required. Failure of a bidder to attend a site visit will not be a cause for its disqualification.   3. No site visits shall be arranged or scheduled after the deadline for the submission of the bids and prior to the award of contract.   4. The bidder and any of its personnel or agents will be granted permission by the procuring entity to enter upon its premises and lands for the purpose of such visit, but only upon the express condition that the bidder, its personnel, and agents will release and indemnify the procuring entity and its personnel and agents from and against all liability in respect thereof, and will be responsible for death or personal injury, loss of or damage to property, and any other loss, damage, costs, and expenses incurred as a result of the inspection.   5. The bidder’s designated representative is invited to attend a pre-bid meeting, if provided for in the BDS. The purpose of the meeting will be to clarify issues and to answer questions on any matter that may be raised at that stage. Nonattendance at the pre-bid meeting will not be a cause for disqualification of a bidder.   6. The bidder is requested, as far as possible, to submit any questions in writing, to reach the procuring entity not later than the number of days before the pre-bid meeting, as indicated in the BDS.   7. Minutes of the pre-bid meeting, including the text of the questions raised, without identifying the source, and the responses given, together with any responses prepared after the meeting, will be transmitted promptly to all bidders who have prequalified in accordance with ITB Sub-Clause 4.8. |
| 1. Clarification of Bidding Documents    1. A prospective bidder requiring any clarification of the bidding documents shall contact the procuring entity in writing at the procuring entity’s address specified in the BDS. The procuring entity will respond in writing to any request for clarification, provided that such request is received prior to the period specified in the BDS. In the case of electronic bidding clarifications should be submitted through the GOJEP System. The procuring entity 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. |
| * 1. Should the procuring entity deem it necessary to amend the bidding documents as a result of a clarification or the pre-bid meeting, it shall do so following the procedure under ITB Clause 10. |
| 1. Amendment of Bidding Documents    1. At any time prior to the deadline for submission of bids, the procuring entity may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective bidder, amend the bidding documents. Later amendments on the same subject modify or replace earlier ones.    2. Amendments will be provided in the form of Addenda to the bidding documents, which will be sent in writing to all prospective bidders that received the bidding documents from the procuring entity. Addenda will be binding on bidders. bidders are required to immediately acknowledge receipt of any such Addenda. It will be assumed that the amendments contained in such Addenda will have been taken into account by the bidder in its bid. In the case of electronic bidding any amendments to the bidding documents will be issued through the GOJEP System.    3. In order to afford prospective bidders reasonable time in which to take the amendment into account in preparing their bids, the procuring entity may, at its discretion, extend the deadline for the submission of bids, in which case, the procuring entity will notify all bidders in writing of the extended deadline for the submission of bids, pursuant to ITB Sub-Clause 19.2.    4. If the clarification results in the ITB being materially inaccurate the procuring entity shall withdraw and reissue the ITB. Bidders who obtained these original documents will be permitted to participate without penalty. |
| 1. Cost of Bidding    1. The bidder shall bear all costs associated with the preparation and submission of its bid, and the procuring entity shall not be responsible or liable for those costs.    2. The procuring entity shall incur no liability by virtue of it exercising its power to cancel a procurement in accordance with Sections 41 and 44 of the Act.    3. Notwithstanding ITB Sub-Clauses 11.1 and 11.2, should the Procurement Review Board, following an application for reconsideration decide that the actions of the procuring entity were not in compliance with the provisions of the Act or the regulations, the Procurement Review Board may require the payment of compensation for any reasonable costs incurred by the bidder. Any payment shall be limited to the costs of the preparation of the bid or the costs relating to the application, or both. |
| 1. Language of Bid    1. The bid, as well as all correspondences and documents relating to the bid exchanged by the bidder and the procuring entity, shall be written in the English language. Supporting documents and printed literature that are part of the bid may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the bid, such translation shall govern. |
| C. Preparation of First Stage Technical Bid |
| 1. Documents Comprising the First Stage Technical Bid    1. The First Stage Technical-Only bid submitted by the bidder shall comprise:   (a) First Stage Technical-Only bid Submission Form, duly completed and signed by a person or persons duly authorized to bind the bidder to the bid;  (b) written confirmation authorizing the signatory of the bid to commit the bidder, in accordance with ITB 17.2;  (c) Attachments:  (i) Attachment 1: bidder’s Eligibility  Documents establishing to the procuring entity’s satisfaction the bidder’s ongoing eligibility to submit bid, including but not limited to documentary evidence that the bidder is legally incorporated in a territory of an eligible source country as defined under ITB 5;  (ii) Attachment 2: bidder’s Qualifications  Documentary evidence establishing to the procuring entity’s satisfaction that the bidder continues to meet the qualification requirements. The bidder must provide evidence on any changes in the information submitted as the basis for initial selection or, if there has been no change at all in said information, a statement to this effect;  Any Manufacturer’s Authorizations and Subcontractor Agreements in accordance with ITB 6.1 (b) and (c);  Documentary evidence regarding the Joint Venture partnership (if any) in accordance with ITB 4.1  (iii) Attachment 3: Proposed Subcontractors  A list of all major items of goods or services that the bidder proposes to purchase or subcontract from others, and the name and nationality of the proposed Subcontractor, including vendors, for each of those items;  (iv) Attachment 4: Intellectual Property  A list of:  a. all goods, as defined in GCC Clause 1.1:  b. all Custom Materials, as defined in GCC Clause 1.1, included in the bidder’s bid.  All Materials not identified as Custom Materials shall be deemed Standard Materials, as defined in GCC Clause 1.1.  Re-assignments among the Software and Materials categories, if necessary, will be made during the implementation of the contract according to GCC Clause 39 (Changes to the Goods).  (v) Attachment 5: Conformity of the goods to the bid documents  Documentary evidence establishing to the procuring entity’s satisfaction, and in accordance with ITB 15, that the goods and services to be supplied, installed, and/or performed by the bidder conform to the bid documents;  (vi) Attachment 6: Deviations  Bidders shall give details of all deviations in their First Stage Technical-Only bid with respect to the contractual terms and conditions contained in the GCC and/or the SCC (including, but not restricted to, Intellectual Property Rights, liabilities, amount of performance security, governing law, etc.) and/or to the required technical features specified in the technical requirements, that they would like the procuring entity to consider during the evaluation of First Stage Technical bid and any Clarification Meeting(s) with the bidder, pursuant to ITB 23 through ITB 26. The procuring entity will consider such proposed deviations, pursuant to ITB 24.1 (g);  Pursuant to ITB 26.8, the bidder-specific memorandum titled “Changes Required Pursuant to First Stage Evaluation” shall indicate the bidder’s deviations that are not acceptable to the procuring entity and which the bidder must withdraw in its Second Stage Combined Technical and Financial bid – failure to do so would constitute grounds for the bid to be rejected pursuant to ITB 42.1;  Deviations that are acceptable to the procuring entity shall be incorporated into the bid documents in the form of an Addendum to be distributed, together with the Invitation for bid – Second Stage Combined Technical and Financial bid, to all bidders invited to submit a Second Stage bid;  (d) Any other documents as specified in the BDS. |
| 1. Alternative bids    1. Unless otherwise specified in the BDS, alternative bids shall not be considered.    2. When bidders are permitted in the BDS to submit alternative technical solutions for specified parts of the services, such parts shall be described in the Specifications (or Terms of Reference) and Drawings, Section V. In such case, the method for evaluating such alternatives will be as indicated in the BDS**.**    3. Any alternative technical bid submitted by bidders as part of their first stage technical bid will be the subject of clarification with the bidder, pursuant to ITB 27. |
| 1. Documents Establishing the Conformity of the Goods    1. To establish the conformity of the goods to the bidding document, the bidder shall furnish as part of its bid the documentary evidence that goods provided conform to the technical specifications and standards of the goods that the bidder proposes to design, supply and install under the contract.    2. The documentary evidence of conformity of the goods to the bidding documents including:       1. Preliminary Project Plan describing, among other things, the methods by which the bidder will carry out its overall management and coordination responsibilities if awarded the contract, and the human and other resources the bidder proposes to use. The Preliminary Project Plan must also address any other topics specified in the BDS. In addition, the Preliminary Project Plan should state the bidder’s assessment of what it expects the procuring entity and any other party involved in the implementation of the goods to provide during implementation and how the bidder proposes to coordinate the activities of all involved parties;       2. written confirmation that the bidder accepts responsibility for the successful integration and inter-operability of all components of the goods as required by the bidding documents;       3. an item-by-item commentary on the procuring entity’s technical requirements, demonstrating the substantial responsiveness of the goods offered to those requirements. In demonstrating responsiveness, the bidder is encouraged to use the Responsiveness Checklist (or Checklist Format) in the Sample Bidding Forms (Section IV). The commentary shall include explicit cross-references to the relevant pages in the supporting materials included in the bid. Whenever a discrepancy arises between the item-by-item commentary and any catalogs, technical specifications, or other preprinted materials submitted with the bid, the item-by-item commentary shall prevail;       4. support material (e.g., product literature, white papers, narrative descriptions of technologies and/or technical approaches), as required and appropriate; and       5. Standards for provision of the goods are intended to be descriptive only and not restrictive. The bidder may offer other standards of quality provided that it demonstrates, to the procuring entity’s satisfaction, that the substitutions ensure substantial equivalence or are superior to those specified in the Section V, Schedule of Requirements.    3. For major items as listed by the procuring entity in Section III, Evaluation and Qualification Criteria, which the bidder intends to purchase or subcontract, the bidder shall give details of the name and nationality of the proposed subcontractors, including manufacturers, for each of those items.    4. For their Second Stage Combined Technical and Financial bid, the invited bidders are expected to offer the same brands, models, Subcontractors and other material provisions as proposed in the First Stage Technical-Only bid, unless changes are explicitly permitted or required in the bidder-specific memorandum entitled “Changes Required Pursuant to First Stage Evaluation” pursuant to ITB 26.8, or are implied or triggered by Addenda to the bid documents issued in the second stage. bidders that deviate from their First Stage Technical-Only bid without specific endorsement by their memorandum or without a reason clearly established by Addenda issued in the second stage, place their bid at risk of being rejected.    5. The bidder shall be responsible for ensuring that any subcontractor proposed complies with the requirements of ITB 4, and that any goods or services to be provided by the subcontractor comply with the requirements of ITB 5 and ITB 15.1. |
| 1. First Stage Technical- bid Submission Form    1. The bidder shall complete the First Stage Technical-Only bid Submission Form furnished in the Sample bid Forms (Section IV) in the manner and detail indicated in this section and submit this form with the bid. |
| 1. Format and Signing of First Stage Technical Bid    1. The bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 13 and clearly mark it “FIRST STAGE TECHNICAL – BID ORIGINAL”. In the case of electronic bidding the bid uploaded on the GOJEP system shall be the “ORIGINAL”. Alternative bids, if permitted in accordance with ITB Clause 14, shall be clearly marked “ALTERNATIVE”. In addition, for hard copy bids, 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.    2. The original and all copies of the bid shall be typed, digitally entered or written in permanent ink and shall be signed and stamped by a person duly authorized to sign on behalf of the bidder. This authorization shall consist of a power of attorney and shall be attached to the bid.    3. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid. |
| D. Submission and Opening of First Stage Technical Bids |
| 1. Submission, Sealing and Marking of bids    1. Bids shall be submitted by hand in hard copy or electronically as specified in the BDS.       1. 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 14, in separate sealed envelopes, duly marking the envelopes as “FIRST STAGE TECHNICAL BID “- **“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 18.2, 18.3 and 18.4.       2. bidders submitting bids electronically shall follow the GOJEP procedures as described in the GOJEP System: Quick Guide for Suppliers.    2. For hard copy bids the inner and outer envelopes shall:  Bear the name and address of the bidder;be addressed to the procuring entity in accordance with ITB Sub-Clause 19.1;bear the specific identification of this bidding process indicated in ITB Sub-Clause 1.1 and any additional identification marks as specified in the BDS; andbear a warning not to open before the time and date for bid opening, in accordance with ITB Sub-Clause 22.1.  * 1. If all envelopes are not sealed and marked as required, the procuring entity will assume no responsibility for the misplacement or premature opening of the bid.   2. The bids shall be deposited in the BID BOX provided in the address stated in ITB Sub-Clause 19.1. |
| 1. Deadline for Submission of bids    1. Bids must be received by the procuring entity at the address or through the GOJEP System no later than the date and time specified in the BDS.    2. The procuring entity may, at its discretion, extend the deadline for the submission of bids by amending the bidding documents in accordance with ITB Clause 10, in which case all rights and obligations of the procuring entity and bidders previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| 1. Late bids    1. The procuring entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 18. All late bids shall be declared late and rejected. The bidder will be notified and must collect their bid within 30 days. It the bid is not collected within this period it shall be destroyed.    2. In the case of electronic bidding, bidders will be unable to upload their bid once the bid submission deadline has passed.   **Bidders are therefore urged to commence bid upload at least two (2) hours prior to the submission time. The Procuring Entity will not be held liable for bids not submitted on time due to late commencement of bid upload. At the FIRST SIGN of any technical difficulties, bidders must make contact with the Office of Public Procurement Policy: (876) 932-5220,932~~-~~5253,932-5246.** |
| 1. Withdrawal and Modification of bids    1. A bidder may withdraw or modify its bid after it has been submitted in accordance with ITB Clause 18 but only prior to the deadline for submission of bids.    2. In the case of hard copy bids bidders must send a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 21, (except that no copies of the withdrawal notice are required). The corresponding modification of the bid must accompany the respective written notice. All notices must be: 2. submitted in accordance with ITB Clauses 17 and 18, and in addition, the respective envelopes shall be clearly marked **“Withdrawal”** or **“Modification**” and 3. received by the procuring entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 22.    1. bids requested to be withdrawn in accordance with ITB Sub-Clause 21.1 shall be returned unopened to the bidders.    2. In the case of electronic bids, the submitted bid must be removed in accordance with the GOJEP System: Quick Guide for Suppliers and a new bid uploaded.    3. After the bid submission deadline, the withdrawal or modification of a bid will result in, forfeiture of any bid security and rejection of the bid. |
| E. Opening and Evaluation of First Stage Technical Bids |
| 1. Bid Opening    1. For hard copy bids the procuring entity shall conduct the bid opening in public at the address, date and time specified in the Data Sheet and in accordance with ITB Sub-Clauses 22.2 to 22.6. The envelopes with the Financial bid shall remain sealed and shall be securely stored until they are opened in accordance with Clause 22 of the ITB.    2. For electronic bidding the GOJEP System shall prepare a bid opening report that shall include, as a minimum: (i) the name and the country of the bidder or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial bid; (iii) any modifications to the bid submitted prior to bid submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet. A copy of the report will be distributed to all bidders who submitted a bid.    3. Envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening.    4. 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.    5. All other envelopes shall be opened one at a time, reading out: (i) the name and the country of the bidder or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial bid; (iii) any modifications to the bid submitted prior to bid submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.    6. The procuring entity shall prepare a record of the bid opening.    7. The bidders’ representatives who are present shall be requested to sign the attendance sheet.    8. A copy of the record shall be distributed to all bidders who submitted consulting services in time and posted online when electronic bidding is permitted. |
| 1. Determination of Responsiveness    1. The procuring entity’s determination of a bid’s responsiveness is to be based on the contents of the bid itself.    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.    3. A material deviation, reservation or omission is one that:   (a) affects in any substantial way the scope, quality, or performance of the goods specified in the contract; or  (b) limits in any substantial way, inconsistent with the bidding documents, the procuring entity’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.   * 1. If a bid is not substantially responsive to the bidding documents, it shall be rejected by the procuring entity and may not subsequently be made responsive by the bidder by correction of the material deviation, reservation, or omission. |
| 1. Technical Evaluation of First Stage Technical-Only bid  |  |  | | --- | --- | | * 1. The procuring entity will carry out a detailed technical evaluation of each First Stage Technical bid that was determined to be responsive in accordance with to ITB 24, in order to determine whether the technical aspects of the bid are responsive to the requirements set forth in the bid documents. In order to reach such a determination, the procuring entity will examine the information supplied by the bidders, pursuant to ITB 13 to ITB 16, and in response to other requirements in the bid documents, taking into account the following factors: | | | * + 1. overall completeness and compliance with the technical requirements; the technical merits of any alternatives offered, and deviations from the technical requirements;     2. suitability of the goods offered in relation to the conditions prevailing at the site; and the suitability of the implementation and other services proposed, as described in the Preliminary Project Plan included in the bid;     3. achievement of specified performance criteria by the goods;     4. compliance with the time schedule called for by the Implementation Schedule and any alternative time schedules offered by bidders, as evidenced by a milestone schedule provided in the Preliminary Project Plan included in the bid;     5. long-term availability of maintenance services and of any critical consumable items necessary for the operation of the goods;     6. any other relevant technical factors that the procuring entity deems necessary or prudent to take into consideration as specified in Section III- Evaluation and Qualification Criteria; and     7. any proposed deviations in the bid to the contractual provisions stipulated in the bid documents.   1. The procuring entity will also review complete alternative technical bids, if any, offered by the bidder, pursuant to ITB 14, to determine whether such alternatives may constitute an acceptable basis for a Second Stage bid to be submitted on its own merits. | | | 1. Evaluation of bidder’s Qualification    1. The procuring entity shall ascertain to its satisfaction that, on the basis of updated documentary evidence submitted in accordance with ITB 13.1 (c) (ii), the bidder continues to be qualified to satisfactorily perform the contract. If there are issues with the continued qualification of the bidder, the procuring entity may explore ways to address the issues with the bidder during clarification meeting(s) pursuant to ITB 26. | | | 1. Discovery and Clarification of First Stage Technical bid and Review of Bidders’ Proposed Deviations and Alternative Solutions    1. The procuring entity may conduct clarification Meeting/Meetings with each responsive bidder to clarify aspects of the First Stage Technical bid that require explanation and to review any bidder’s proposed alternative solutions or reservations to the commercial or contractual provisions of the bid documents. The purpose of the meetings shall be broad enough to permit discovery and clarification of technical aspects as well as commercial terms and conditions. Such a meeting shall review suitability of the proposed solutions.    2. During the discovery and clarification meetings, the procuring entity will be able to engage in a process to refine its requirements and identify appropriate changes to the technical and commercial terms. The bidder may also bring to the procuring entity’s attention any changes it would like to make to its First Stage bid in the Second Stage Combined Technical and Financial bid.    3. There is no obligation upon the bidder to attend a Clarification Meeting. If the bidder is unable, or declines, to attend a Clarification Meeting, the procuring entity will undertake a reasonable effort to achieve the required clarification by correspondence with the bidder or by other means such as audio or videoconference as may be available. Any reduction in the scope for obtaining complete clarification of a First Stage Technical bid due to having to use these alternative methods is at the bidder’s risk of its bid being rejected.    4. Unless specified in the BDS, the First Stage Technical bid clarification stage will not include live demonstrations and/or tests of the bidder’s proposed solution and products. However, if the BDS specifies such demonstrations and/or test they will be as described in the BDS, including whether they are mandatory - at the risk of otherwise having the bid rejected - for bidders invited to stage them, and the place for them. If the BDS permits bidders to stage the tests and demonstrations away from the procuring entity’s location, including outside the procuring entity’s country, the procuring entity will bear all staff, travel and subsistence costs of its own team of attendees. However, the procuring entity will not be responsible for any and all costs of the bidder in preparing, conducting and dismantling the tests and demonstrations.    5. The procuring entity will advise the bidder, pursuant to ITB 13.1 (c) (vi), of any deviations the bidder made or proposed in the First Stage Technical bid that the procuring entity finds:       1. unacceptable and that must be withdrawn in the Second Stage Combined Technical and Financial bid;       2. acceptable and that will be incorporated into the bid documents by way of an Addendum that shall be sent to all bidders invited to submit a Second Stage bid.   If any deviation is waived for a bidder, the purchaser will ensure that this deviation is also waived for all other proposers, as applicable.   * 1. Person or persons attending each Clarification Meeting on behalf of a bidder should be duly authorized, through a written power of attorney, to represent the bidder in the discussions and to reach agreement with the procuring entity on the specific changes in the bidder’s First Stage Technical bid that are required if the bidder is to submit a Second Stage Technical and Financial bid. The procuring entity will not be responsible for any costs incurred by the bidder’s party for and in attending the Clarification Meeting(s). An invitation for, and attendance at, Clarification Meetings does not necessarily imply that the bidder will be invited for the second stage. However, if Clarification Meetings are held, all bidders that have been determined to be responsive in accordance with ITB 24 and ITB 25 will be offered the opportunity of such a meeting, even if their bid, in the procuring entity’s opinion, do not require face to face clarification.   2. Neither the bidder-specific memorandum pursuant to ITB 26.8, nor any minutes written of the Clarification Meeting(s) or any correspondence exchanged between a specific bidder and the procuring entity, will be shared with other bidders. Except for the memorandum, no requirements upon the bidder’s Second Stage Combined Technical and Financial bid will be implied from any additional bidder-specific minutes of meetings or correspondence. However, procuring entity and bidder might use these documents, as appropriate, as clarification information in the second stage of bid preparation or evaluation, respectively.   3. At the end of the clarification process, the procuring entity will prepare a bidder-specific memorandum entitled “Changes Required Pursuant to First Stage Evaluation” and conveyed this to the relevant bidder as part of the Invitation for bid – Second Stage Combined Technical and Financial bid. The procuring entity will record in each bidder-specific memorandum:      1. all changes to the First Stage Technical-Only bid and further elaborations required in the Second Stage Combined Technical and Financial bid;      2. list any deviations pursuant to ITB 13.1 (c) (vi) and ITB 26.5 which are unacceptable to the procuring entity and which the bidder must withdraw in the Second Stage Combined Technical and Financial bid;      3. any Subcontractors which the bidder must delete or replace, including justification for the deletion/replacement pursuant to ITB 6.2,      4. the agreement between procuring entity and bidder on the name of the Adjudicator; or the procuring entity’s bid for replacing the previously nominated Adjudicator; or indicate no Adjudicator will be nominated, pursuant to ITB 63.      5. If there is no requirement for any bidder-specific changes for a bidder, the Invitation for bid -- Second Stage will state so. | | |
| F Invitation to Second Stage Combined Technical and Financial Bid |
| 1. Invitation to Submit Second Stage Combined Technical and Financial bid   27.1 Having concluded the First Stage Technical evaluation (including any Clarification Meetings), the procuring entity:   * + 1. may issue an Addendum to the bid documents amending, among others, the **BDS**, the SCC, and the Technical Requirements with the objective of improving competition without compromising the essential business needs and/or functional requirements (e.g., acceptable deviations brought to the procuring entity’s attention by one or more bidders; sharpened formulation of certain Technical Requirements; adjustments to the Implementation Schedule; etc.)     2. will either  1. invite the bidder to submit Second Stage Technical and Financial bid, with an updated technical bid (reflecting the bidder-specific memorandum entitled “Changes Required Pursuant to First Stage Technical-Only Evaluation” and/or in Addenda to the bid documents) and a corresponding financial bid, or 2. notify the bidder that its bid has been rejected on the grounds of being non-responsive, or that the bidder does not continue to meet the minimum qualification requirements set forth in the qualification document.    1. Bidders invited to submit Second Stage Technical and Financial bid are required to promptly acknowledge to the procuring entity the receipt of the Invitation for bid -- Second Stage Technical and Financial bid and the attachments, if any, listed in it.    2. The deadline and address for the submission of Second Stage Technical and Financial bid will be specified in the Invitation for bid – Second Stage Technical and Financial bid, which the procuring entity will communicate to firms it has selected to participate in the Second Stage Technical and Financial bid process. Similarly, required bid-securing Declaration or the amount of the required bid Security will also be communicated in the same Invitation.    3. Bidders are not allowed to form a Joint Venture with other bidders, nor change the partner(s) or structure of the Joint Venture without the purchaser’s approval. |
| G Preparation of Second Stage Technical and Financial Bid |
| 1. Documents Comprising the Second Stage Technical and Financial bid    1. The bid shall comprise two Parts, namely the Technical Part and the Financial Part. These two Parts shall be submitted simultaneously in two separate sealed envelopes. One envelope shall contain only information relating to the Technical Part and the other, only information relating to the Financial Part.    2. The Technical Part shall comprise the following: 2. **Letter of bid**: Stage 2 Technical Part, in accordance to ITB 29.1; 3. **Security**: bid Security or bid Securing declaration, in accordance with ITB 32; 4. **Authorization**: written confirmation authorizing the signatory of the bid to commit the bidder, in accordance with ITB 34.2; 5. **Attachments** (or updates thereto):    * + 1. Attachment 1: bidder’s Eligibility and Qualification - documentary evidence establishing to the procuring entity’s satisfaction that the bidder continues to meet the qualification requirements. The bidder must provide evidence on any changes in the information submitted as the basis for initial selection or, if there has been no change at all in said information, a statement to this effect; Any changes in the information submitted in the first stage technical bid. Any Manufacturer’s Authorizations and Subcontractor Agreements specified as required in the BDS for ITB 6.1 (b) and ITB 6.1 (c). Documentary evidence regarding the Joint Venture partnership (if any) in accordance with ITB 4.1        2. Attachment 2: Proposed Subcontractors - A list of all major items of goods or services that the bidder proposes to purchase or subcontract from others, and the name and nationality of the proposed Subcontractor, including vendors, for each of those items;        3. Attachment 3: Intellectual Property - A list of:   (1) all goods as defined in GCC Clause 1.1 (c):  (2) all Custom Materials, as defined in GCC Clause 1.1 (c), included in the bidder’s bid. All Materials not identified as Custom Materials shall be deemed Standard Materials, as defined in GCC Clause 1.1 (c).  Re-assignments among the goods and Materials categories, if necessary, will be made during the implementation of the contract according to GCC Clause 39 (Changes to the Goods).   * + - 1. Attachment 4: Conformity: documentary evidence establishing to the procuring entity’s satisfaction, that the goods and services to be designed, supplied, installed, and/or performed by the bidder conform to the bid documents (and any Addendum and bidder-specific memorandum “Changes Required Pursuant to First Stage Technical-Only Evaluation”.  1. Other: any other document required in the BDS.    1. The First Stage bid on which the Second Stage bid is based, while not having to be resubmitted, remains an implied, integral part of the Second Stage bid. The bid validity period pursuant to ITB 33 will include any parts or provisions of the First Stage bid as referenced, assumed or implied by the Second Stage bid.   **The Financial Part** shall comprise the following:   * + 1. **Letter of bid** – Stage 2 Financial Part: prepared in accordance with ITB 29;     2. **Price Schedules:** completed prepared in accordance with ITB 30 and ITB 31;     3. **Financial Disclosure:** The bidder shall furnish in the Letter of bid information on commissions and gratuities, if any, paid or to be paid to agents or any other party relating to this bid; and     4. Other: any other document required in the BDS. |
| 1. Letter of bid, and Schedules    1. The bidder shall complete the Stage 2 Letter of bid – Technical Part and Stage 2 Letter of bid – Financial Part using the relevant forms furnished in Section IV, bidder’s Forms. The forms must be completed without any alterations to the text, and no substitutes shall be accepted except as provided under ITB 17.3. All blank spaces shall be filled in with the information requested. |
| * 1. The price of services shall be separated into their local and foreign currency components and where appropriate, broken down into unit prices. Prices must include all taxes, duties, levies and fees whatsoever, except only VAT or other indirect taxes, or stamp duties, that may be assessed and/or apply in the procuring entity’s country on/to the price of the services invoiced to the procuring entity, if the contract is awarded. |
| 1. Bid Prices    1. Unless otherwise specified in the BDS, bidders shall quote for the complete goods package on a “single responsibility” basis such that the total bid price covers all the Supplier’s obligations mentioned in or to be reasonably inferred from the bid including the design, manufacture, supply, installation, testing, pre-commissioning, commissioning of the goods and, where so required in the bid document, the acquisition of all permits, approvals and licenses, etc.; the operation, maintenance and training services and any other items and services.    2. All goods and services identified in the Supply and Installation Cost Sub-Tables in Section VII, and all other goods and services proposed by the bidder to fulfill the requirements of the goods, must be priced separately and summarized in the corresponding cost tables in the Sample bid Forms (Section IV), in accordance with the instructions provided in the tables and in the manner specified below.    3. Unless otherwise specified in the BDS, the bidder must also propose Recurrent Cost Items specified in the Technical Requirements, Recurrent Cost Sub-Table in Section VII (if any). These must be priced separately and summarized in the corresponding cost tables in the Sample bid Forms (Section IV), in accordance with the instructions provided in the tables and in the manner specified below.    4. If specified in the BDS, the bidder must also propose separate enforceable contracts for the Recurrent Cost Items not included in the main contract.    5. Prices for Recurrent Costs are all-inclusive of the costs of necessary goods such as spare parts, software license renewals, labor, etc., needed for the continued and proper operation of the goods and, if appropriate, of the bidder’s own allowance for price increases.    6. Prices for Recurrent Costs beyond the scope of warranty services to be incurred during the Warranty Period, defined in GCC Clause 31.4 and prices for Recurrent Costs to be incurred during the Post-Warranty Period, defined in SCC Clause 1.1. (e) (xiii), shall be quoted as Service prices on the Recurrent Cost Sub-Table in detail, and on the Recurrent Cost Summary Table in currency totals.    7. Unit prices must be quoted at a level of detail appropriate for calculation of any partial deliveries or partial payments under the contract, in accordance with the Implementation Schedule in Section VII), and with GCC and SCC 15 – Terms of Payment. bidders may be required to provide a breakdown of any composite or lump-sum items included in the Cost Tables.    8. The price of items that the bidder has included in its second stage technical bid but left blank or not included in the cost tables provided in the Sample bid Forms (Section IV) shall be assumed to be included in the price of other items. |
| * 1. The prices for goods components of the goods are to be expressed and shall be defined and governed in accordance with the rules prescribed in the edition of Incoterms specified in the BDS, as follows:  1. **goods supplied from outside the procuring entity’s country:**    1. Unless otherwise specified in the BDS, the prices shall be quoted on a CIP (named place of destination) basis, exclusive of all taxes, stamps, duties, levies, and fees imposed in Jamaica. The named place of destination and special instructions for the contract of carriage are as specified in the SCC for GCC 1.1 (e) (iii). In quoting the price, the bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, the bidder may obtain insurance services from any eligible source country.   **(b) Locally supplied goods:**   * 1. Unit prices of goods offered from within Jamaica, shall be quoted on an EXW (ex factory, ex works, ex warehouse or off-the-shelf, as applicable) basis, including all customs duties, levies, fees, sales and other taxes incurred until delivery of the goods, but excluding all VAT or sales and other taxes and duties/fees incurred for the goods at the time of invoicing or sales transaction, if the contract is awarded.   **(c) Inland transportation:**   * 1. Unless otherwise stated in the BDS, inland transportation, insurance and related local costs incidental to the delivery of the goods to the designated Project Sites must be quoted separately as a Service item in accordance with ITB 31.7, whether the goods are to be supplied locally or from outside Jamaica, except when these costs are already included in the price of the goods, as is, e.g., the case, when ITB 31.6 (a) specifies CIP, and the named places of destination are the Project Sites. |
| * 1. The price of services shall be separated into their local and foreign currency components and where appropriate, broken down into unit prices. Prices must include all taxes, duties, levies and fees whatsoever, except only VAT or other indirect taxes, or stamp duties, that may be assessed and/or apply in the procuring entity’s country on/to the price of the services invoiced to the procuring entity, if the contract is awarded.   2. Unless otherwise specified in the BDS, the prices must include all costs incidental to the performance of the services, as incurred by the Supplier, such as travel, subsistence, office support, communications, translation, printing of materials, etc. Costs incidental to the delivery of the services but incurred by the procuring entity or its staff, or by third parties, must be included in the price only to the extent such obligations are made explicit in these bid documents (as, e.g., a requirement for the bidder to include the travel and subsistence costs of trainees).   3. Unless otherwise specified in the BDS, prices quoted by the bidder shall be fixed during the bidder’s performance of the contract and not subject to increases on any account. Proposals submitted that are subject to price adjustment will be rejected. |
| 1. Currencies of bid    1. The currency(ies) of the bid and the currency(ies) of payments shall be the same. The bidder shall quote in Jamaican Dollars the portion of the bid price that corresponds to expenditures incurred in Jamaica, unless otherwise specified in the BDS.    2. The bidder may express the bid price for expenditure outside of Jamaica in any freely convertible currency. 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 freely convertible international currencies in addition to Jamaican Dollars.    3. Bidders may be required by the procuring entity to justify their foreign currency requirements and to substantiate that the amounts included in the Lump Sum are reasonable and responsive to ITB Sub-Clause 15.1. |
| 1. Bid Security    1. The bidder shall furnish as part of its bid a bid security, if required, as specified in the BDS.    2. The bid security shall be in the amount specified in the BDS and denominated in the currency of the bid, and shall:  at the bidder’s option, be in the form of either an irrevocable letter of credit, or a bank guarantee from a banking institution, or a bond issued by a Surety which is incorporated and domiciled in Jamaica, or a bid securing declaration, or a certified managers cheque, or an insurance certificate;be issued by a reputable financial institution selected by the bidder and located in any eligible country. If the institution issuing the bid security is located outside Jamaica, it shall have a correspondent financial institution located in the Jamaica to make it enforceable;be in accordance with one of the forms of bid security included in Section IV, Bidding Forms;be payable promptly upon written demand by the procuring entity in case the conditions listed in ITB Sub-Clause 32.5 are invoked;be submitted in its original form with the bid (copies shall not be considered compliant with the requirement). In the case of the electronic submission of bids, an electronic copy of the bid security shall be sent and uploaded by the bidder, the original must be submitted to the address provided at ITB Sub-Clause 22.1 not later than the time and date of bid submission deadline.remain valid for a period of 28 days beyond the validity period of the bids, or 28 days beyond the extended validity period, if applicable in accordance with ITB Sub-Clause 33.2.be stamped by the Stamp Office of Jamaica, in keeping with the Stamp Duty Act, as proof of payment of the relevant Stamp Duty. (The Stamp Duty Division within the Tax Administration of Jamaica (TAJ) issues a Vermillion seal on the bond and a validation barcode, which is placed on the reverse of the consideration (first) page.)  * 1. If a bid security is required in accordance with ITB Sub-Clause 32.1, any bid not accompanied by a substantially responsive bid security in accordance with ITB Sub-Clause 32.1 and 32.2, shall be rejected by the procuring entity as non-responsive.   2. The bid security of unsuccessful bidders shall be returned as promptly as possible upon the successful bidder’s furnishing of the performance security and upon the procuring entity’s receipt of a signed contract agreement.   3. The bid security may be forfeited:  if a bidder materially modifies or withdraws its bid during the period of bid validity specified by the bidder on the Letter of Bid, except as provided in ITB Sub-Clause 33.2; orif a bidder does not accept a correction of errors in accordance with ITB Clause 30.4; orif the successful bidder fails to:(i) sign the contract in accordance with ITB Clause 61 and(ii) furnish a performance security in accordance with ITB Clause 62.  * 1. The bid security of a JV must be in the name of the JV that submits the bid. If the JV has not been legally constituted at the time of bidding, the bid security shall be in the names of all future partners as named in the letter of intent mentioned in Section IV “Bidding Forms,” Bidder Information Form Item 7. |
| 1. Period of Validity of bids    1. Bids shall remain valid for the period specified in the BDS after the bid submission deadline date prescribed by the procuring entity. A bid valid for a shorter period shall be rejected by the procuring entity as non-responsive.    2. In exceptional circumstances, prior to the expiration of the bid validity period, the procuring entity 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 32, it will also be extended. A bidder may refuse the request for extension without forfeiting its bid security. A bidder granting the request shall not be required or permitted to modify its bid. |
| 1. Format and Signing of Second Stage Technical and Financial Bid    1. The bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 28 and clearly mark it “FIRST STAGE TECHNICAL – BID ORIGINAL”. In the case of electronic bidding the bid uploaded on the GOJEP system shall be the “ORIGINAL”. Alternative bids, if permitted in accordance with ITB Clause 14, shall be clearly marked “ALTERNATIVE”. In addition, for hard copy bids, 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.    2. The original and all copies of the bid shall be typed, digitally entered or written in permanent ink and stamped by a person duly authorized to sign on behalf of the bidder. This authorization shall consist of a power of attorney and shall be attached to the bid.    3. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid. |
| H. Submission of Second Stage Technical and Financial Proposals |
| 1. Submission, Sealing, and Marking of bid    1. The bidder shall prepare one original of the documents comprising the bid as described in ITB Clause 28 and clearly mark it “ORIGINAL”. In the case of electronic bidding the bid uploaded on the GOJEP system shall be the “ORIGINAL”. For hard copy bid, the bidder shall submit copies of the bid, in the number specified in the Data Sheet and clearly mark them “COPY.” In the event of any discrepancy between the original and the copies, the original shall prevail.    2. The original and all copies of the bid shall be typed, digitally entered or written in permanent ink and shall be signed and stamped by a person duly authorized to sign on behalf of the bidder. All pages must also be initialled by the authorized person. This authorization shall consist of a power of attorney and shall be attached to the bid.    3. A bid submitted by a JV shall be signed by all members so as to be legally binding on all members, or by an authorized representative who has a written power of attorney signed by each member’s authorized representative.    4. Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialed by the person signing the bid.    5. bid shall be submitted by hand in hard copy or electronically as specified in the Data Sheet.       1. bidders submitting consulting services by mail or by hand shall enclose the original and each copy of the bid, including alternative consulting services, if permitted, in accordance with ITB Clause 14, 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 18.2 to 18.4.       2. bidders submitting consulting services electronically shall follow the GOJEP procedures as described in the GOJEP System: Quick Guide for Suppliers.    6. For hard copy consulting services, the original and all the copies of the Technical bid shall be placed inside of a sealed envelope clearly marked “Technical bid”, “[Name of the Assignment]”, reference number, name and address of the bidder, and with a warning “Do Not Open until [insert the date and the time of the Technical bid submission deadline].”    7. Similarly, the original Financial bid (if required for the applicable selection method) shall be placed inside of a sealed envelope clearly marked “Financial bid” followed by the name of the assignment, reference number, name and address of the bidder, and with a warning “Do Not Open With The Technical bid.”    8. The sealed envelopes containing the Technical and Financial bid shall be placed into one outer envelope and sealed. This outer envelope shall bear the submission address, bid reference number, the name of the assignment, bidder’s name and the address, and shall be clearly marked “Do Not Open Before [insert the time and date of the submission deadline indicated in the Data Sheet]”.    9. If all envelopes are not sealed and marked as required, the procuring entity will assume no responsibility for the misplacement or premature opening of the bid. |
| 1. Deadline for Submission of bids    1. Bids must be received by the procuring entity at the address or through the GOJEP System no later than the date and time specified in the BDS.    2. The procuring entity may, at its discretion, extend the deadline for the submission of bids by amending the bidding documents in accordance with ITB Clause 10, in which case all rights and obligations of the procuring entity and bidders previously subject to the deadline shall thereafter be subject to the deadline as extended. |
| 1. Late bids    1. The procuring entity shall not consider any bid that arrives after the deadline for submission of bids, in accordance with ITB Clause 36. All late bids shall be declared late and rejected. The bidder will be notified and must collect their bid within 30 days. It the bid is not collected within this period it shall be destroyed.    2. In the case of electronic bidding, bidders will be unable to upload their bid once the bid submission deadline has passed. |
| 1. Withdrawal and Modification of bids    1. A bidder may withdraw or modify its bid after it has been submitted in accordance with ITB Clause 35 but only prior to the deadline for submission of bids.    2. In the case of hard copy bids bidders must send a written notice, duly signed by an authorized representative, and shall include a copy of the authorization (the power of attorney) in accordance with ITB Sub-Clause 21, (except that no copies of the withdrawal notice are required). The corresponding modification of the bid must accompany the respective written notice. All notices must be: 2. submitted in accordance with ITB Clauses 34 and 35, and in addition, the respective envelopes shall be clearly marked **“Withdrawal”** or **“Modification**” and 3. received by the procuring entity prior to the deadline prescribed for submission of bids, in accordance with ITB Clause 36.    1. Bids requested to be withdrawn in accordance with ITB Sub-Clause 38.1 shall be returned unopened to the bidders.    2. In the case of electronic bids, the submitted bid must be removed in accordance with the GOJEP System: Quick Guide for Suppliers and a new bid uploaded.    3. After the bid submission deadline, the withdrawal or modification of a bid will result in, forfeiture of any bid security and rejection of the bid. |
| I. Second Stage: Public Opening of Technical Parts |
| 1. Opening of Technical bid    1. For hard copy consulting services, the procuring entity shall conduct the bid opening in public at the address, date and time specified in the Data Sheet and in accordance with ITB Sub-Clauses 39.2 to 39.6. The envelopes with the Financial bid shall remain sealed and shall be securely stored until they are opened in accordance with Clause 46 or ITB 47 of the ITB.    2. For electronic bidding the GOJEP System shall prepare a bid opening report that shall include, as a minimum: (i) the name and the country of the bidder or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial bid; (iii) any modifications to the bid submitted prior to bid submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet. A copy of the report will be distributed to all bidders who submitted a bid.    3. Envelopes marked “WITHDRAWAL” shall be opened and read out and the envelope with the corresponding bid shall not be opened, but returned to the bidder. If the withdrawal envelope does not contain a copy of the “power of attorney” confirming the signature as a person duly authorized to sign on behalf of the bidder, the corresponding bid will be opened. No bid withdrawal shall be permitted unless the corresponding withdrawal notice contains a valid authorization to request the withdrawal and is read out at bid opening.    4. 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.    5. All other envelopes shall be opened one at a time, reading out: (i) the name and the country of the bidder or, in case of a JV, the name of the JV, the name of the lead member and the names and the countries of all members; (ii) the presence or absence of a duly sealed envelope with the Financial bid; (iii) any modifications to the bid submitted prior to bid submission deadline; and (iv) any other information deemed appropriate or as indicated in the Data Sheet.    6. The procuring entity shall prepare a record of the bid opening.    7. The bidders’ representatives who are present shall be requested to sign the attendance sheet.    8. A copy of the record shall be distributed to all bidders who submitted consulting services in time and posted online when electronic bidding is permitted. |
| J. Second Stage: Evaluation of Technical Part |
| 1. Confidentiality    1. Information relating to the examination, evaluation, comparison, and post-qualification of bids, and recommendation of contract award, shall not be disclosed to bidders or any other persons not officially concerned with such process until publication of the contract Award.    2. Any effort by a bidder or any person to influence the procuring entity in the examination, evaluation, comparison, and post-qualification of the bids or contract award decisions, pursuant to Section 56 of the Act, shall result in the rejection of its bid.    3. Notwithstanding ITB Sub-Clause 40.2, from the time of bid opening to the time of contract Award, if any bidder wishes to contact the procuring entity on any matter related to the bidding process, it should do so in writing. |
| 1. Clarification of bids    1. To assist in the examination, evaluation, and comparison of the bids, and qualification of the bids, the procuring entity 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 procuring entity shall not be considered. The procuring entity’s request for clarification and the response shall be in writing. In the case of electronic bidding this will be managed through the GOJEP System. 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 procuring entity in the evaluation of the bids, in accordance with ITB Clause 35.    2. If a bidder does not provide clarifications of its bid by the date and time set in the procuring entity’s request for clarification, its bid may be rejected. |
| 1. Determination of Responsiveness    1. The procuring entity’s determination of a bid’s responsiveness is to be based on the contents of the bid itself.    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.    3. A material deviation, reservation or omission is one that:   (a) affects in any substantial way the scope, quality, or performance of the goods specified in the contract; or  (b) limits in any substantial way, inconsistent with the bidding documents, the procuring entity’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.   * 1. If a bid is not substantially responsive to the bidding documents, it shall be rejected by the procuring entity and may not subsequently be made responsive by the bidder by correction of the material deviation, reservation, or omission. |
| 1. Evaluation of bids    1. The procuring entity shall examine each eligible bid to determine, its responsiveness.    2. To evaluate a bid, the procuring entity shall use all the factors, methodologies and criteria defined in ITB Clause 43. The non-price factors selected shall to the extent possible be expressed in monetary terms to facilitate comparison of bids, or given weights/scores or be set out in descending order of importance or in a manner otherwise specified in Section III, Evaluation and Qualification Criteria.    3. The procuring entity shall use the criteria and methodologies listed in this ITB and Section III, Evaluation and Qualification criteria. No other evaluation criteria or methodologies shall be permitted. By applying the criteria and methodologies the procuring entity shall determine the most advantageous bid. |
| 1. Notification of evaluation of Technical Parts    1. Following the completion of the evaluation of the Technical Parts of bid, the procuring entity shall make the following notifications. 2. Notify in writing those bidders whose bid were considered substantially non-responsive to the requirements in the bid, advising them of the following information: 3. their bid has been evaluated to be non-responsive; 4. their envelope marked “Financial Part” will be returned to them unopened after the completion of the bid evaluation process and the signing of the contract; 5. Option 1: when **BAFO or negotiations is not to be applied** notify them of the date, time and location of the public opening of the envelopes marked ‘Financial Part”, or;   Option 2: **when BAFO or negotiations apply** **as specified in the BDS,** notify them that: (i) the envelopes marked ‘Financial Part’ will not be opened in public and that (ii) the announcement of the names of the bidders whose Financial Parts will be opened and the total bid prices will be deferred to the time that the Notification of Intention to Award the contract is issued.   1. The procuring entity shall, simultaneously, notify in writing those bidders whose bid were considered substantially responsive to the requirements in the bid, advising them of the following information: 2. their bid has been evaluated as substantially responsive to the bid; and 3. Option 1: when **BAFO or negotiations is not to be applied** notify them of the date, time and location of the public opening of the envelopes marked ‘Financial Part”, or; 4. Option 2: when BAFO or negotiations apply as specified in the BDS, notify them that: (i) the envelopes marked ‘Financial Part’ will not be opened in public and that (ii) the announcement of the names of the bidders whose Financial Parts will be opened and the total bid prices will be deferred to the time that the Notification of Intention to Award the contract is issued. |
| 1. Comparison of Bids    1. The procuring entity shall compare all substantially responsive bids in accordance with ITB Sub-Clause 35 to determine the bid that has the lowest bid price or is the most advantageous. |
| K. Second Stage: Opening of Financial Parts |
| 1. Public Opening of Financial Parts when BAFO or negotiations do not apply    1. When BAFO or negotiations do not apply as specified **in the BDS**, the Financial Parts will be opened in public by the procuring entity in the presence of bidders, or their designated representatives, and anyone else who chooses to attend. Each envelope marked “Financial Part” shall be inspected to confirm that it has remained sealed and unopened. These envelopes shall then be opened by the procuring entity. The procuring entity shall read out the names of each bidder, and the total bid prices, per lot (contract) if applicable, including any discounts, the presence or absence of a bid Security or bid-Securing Declaration, if required and any other details as the procuring entity may consider appropriate. Only discounts read out at the public opening shall be considered for evaluation. The Letter of bid - Financial Part and the Price Schedules are to be initialed by a representative of the procuring entity attending the public opening in the manner specified in the **BDS**.    2. The procuring entity shall prepare a record of the Financial Part of the bid opening that shall include, as a minimum:   (a) the name of the bidders whose Financial Part was opened;  (b) the bid prices, per lot (contract) if applicable, including any discounts.   * 1. The bidders whose envelopes marked “Financial Part” have been opened, or their representatives who are present, shall be requested to sign the record. The omission of a bidder’s signature on the record shall not invalidate the contents and effect of the record. A copy of the record shall be distributed to all bidders. |
| 1. Opening of Financial Parts when BAFO or negotiations apply    1. When, **as specified in the BDS**, BAFO or negotiations apply the Financial Parts will not be opened in public, and will be opened by the procuring entity.    2. At the opening each of the envelopes marked “Financial Part” shall be inspected to confirm that they have remained sealed and unopened. These envelopes shall then be opened by the procuring entity. The procuring entity shall record the names of each bidder, and the total bid prices and any other details as the procuring entity may consider appropriate. The Letter of bid - Financial Part and the Price Schedules are to be initialed by a representative of the procuring entity attending the opening.    3. The procuring entity shall prepare a record of the opening of the Financial Part envelopes that shall include, as a minimum:   (a) the name of the bidders whose Financial Part was opened;  (b) the bid prices including any discounts. and  (c) The Probity Auditor’s report of the opening of the Financial Part.  The Chairman shall sign the record. The contents of the envelopes marked ‘Financial Part’ and the record of the opening shall be kept in safe custody by the procuring entity and not disclosed to anyone until the time of the transmission of the Notice of Intention to Award the contract. |
| L. Second Stage: Evaluation of Financial Part |
| 1. Correction of Arithmetical Errors    1. Provided that the bid is substantially responsive, the procuring entity shall correct arithmetical errors on the following basis:   (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless in the opinion of theprocuring entity there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected;  (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected; and  (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetic error, in which case the amount in figures shall prevail subject to (a) and (b) above.   * 1. If the bidder that submitted the lowest evaluated or most advantageous bid does not accept the correction of errors, its bid shall be rejected. |
| 1. Conversion to Single Currency    1. For evaluation and comparison purposes, the procuring entity 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 the source and on the date specified in the BDS. |
| 1. Special and Differential Treatment Measures   Special and Differential Treatment Measures shall not be a factor in bid evaluation, unless otherwise **specified in the** **BDS.** |
| 1. Evaluation Process Financial Parts    1. To evaluate each bid’s Financial Part, the procuring entity shall consider the following: 2. the price of the hardware, Software, related equipment, products, Materials and other goods offered from within or from outside Jamaica; 3. the price for all development, transportation, insurance, installation, customization, integration, Commissioning, testing, training, technical support, repair, and other services; 4. price adjustment for correction of arithmetic errors in accordance with ITB 48.1; 5. price adjustment due to discounts offered in accordance with ITB 46.2 and ITB 47.3; 6. converting the amount resulting from applying (a) to (c) above, if relevant, to a single currency in accordance with ITB 49; and 7. the evaluation factors indicated in Section III, Evaluation and Qualification Criteria.    1. If price adjustment is allowed in accordance with ITB 30.9, the estimated effect of the price adjustment provisions of the Conditions of contract, applied over the period of execution of the contract, shall not be taken into account in bid evaluation.    2. If this bid allows bidders to quote separate prices for different lots (contracts), each lot will be evaluated separately to determine the most advantageous bid using the methodology specified in Section III, Evaluation and Qualification Criteria. |
| 1. Abnormally Low Bids    1. An Abnormally Low bid is one where the bid price, in combination with other elements of the bid, appears so low that it raises material concerns as to the capability of the bidder in regards to the bidder’s ability to perform the contract for the offered bid price.    2. In the event of identification of a potentially Abnormally Low bid, the procuring entity shall seek written clarifications from the bidder, including detailed price analyses of its bid price in relation to the subject matter of the contract, scope, proposed methodology, schedule, allocation of risks and responsibilities and any other requirements of the bidding document.    3. After evaluation of the price analyses, in the event that the procuring entity determines that the bidder has failed to demonstrate its capability to perform the bid for the offered bid price, the procuring entity shall reject the bid |
| 1. Unbalanced or Front-Loaded Bids    1. If the bid that is evaluated as the lowest bid price or most advantageous is, in the procuring entity’s opinion, seriously unbalanced or front loaded, the procuring entity may require the bidder to provide written clarifications. Clarifications may include detailed price analyses to demonstrate the consistency of the bid prices with the scope of goods, proposed methodology, schedule and any other requirements of the bidding document.    2. After the evaluation of the information and detailed price analyses presented by the bidder, the procuring entity may as appropriate: 2. accept the bid; or 3. require that the total amount of the performance security be increased at the expense of the bidder to a level not exceeding 20 % of the contract Price; or 4. reject the bid. |
| M. Stage 2: Evaluation of Combined Technical and Financial Part |
| 1. Evaluation of Combined Technical and Financial bid    1. The procuring entity’s evaluation of responsive Second Stage bid will take into account technical factors, in addition to cost factors in accordance with Section III – Evaluation and Qualification Criteria. The weight to be assigned for the Technical features and cost, and the Interest Rate for net present value calculations are specified in the BDS. The procuring entity will rank the bids based on the evaluated bid score. |
| 1. Best and Final Offer (BAFO)    1. After completion of the combined technical and financial evaluation of bids, if specified in the BDS, the procuring entity may invite those bidders to submit their BAFOs. The procedure for submitting BAFOs will be specified in the BDS. BAFO is a final opportunity for bidders to improve their bid without changing the specified business function and performance requirements in accordance with the invitation to Submit Second Stage Combined Technical and Financial bid, bidders are not obliged to submit a BAFO. Where BAFO is used there will be no negotiation after BAFO.    2. BAFO will apply a two-envelope procurement process. The submission of BAFOs, opening of the Technical Parts and Financial Parts and the evaluation of bid will follow the procedures described for the Technical, Financial and Combined evaluation above, as appropriate. |
| 1. Most Advantageous bid    1. The Most Advantageous bid is the bid of the bidder that meets the Qualification Criteria, and whose bid has been determined to be: 2. substantially responsive to the bid; and 3. the best evaluated bid i.e. the highest scoring bid, in the combined technical and financial evaluation. |
| 1. Negotiations    1. If specified in the BDS, the procuring entity may conduct negotiations following the evaluation of Stage 2 bid and before the final contract award. The procedure of the negotiations will be specified in the BDS.    2. Negotiations shall be held by the procuring entity.    3. Negotiations may address any aspect of the contract so long as they do not change the specified business function and performance requirements.    4. The procuring entity may negotiate first with the bidder that has the Most Advantageous bid. If the negotiations are unsuccessful the procuring entity may negotiate with the bidder that has the next best Most Advantageous bid, and so on down the list until a successful negotiated outcome is achieved. |
| 1. Procuring entity’s Right to Accept Any bid, and to Reject Any or All bids    1. The procuring entity reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids without thereby incurring any liability to bidders:       1. at any time prior to the acceptance of the successful bid; or       2. after the successful bid is accepted if:          1. the bidder presenting the successful bid is disqualified under the Act or the regulations;          2. the procurement is cancelled;          3. the bidder presenting the successful bid is excluded on the grounds of an unfair competitive advantage or a conflict of interest that is likely to impair the integrity of those procurement proceedings;          4. the procurement, the bid or the bidder contravenes or is otherwise not compliant with the provisions of the Act or the regulations. |
| N. Award of Contract |
| 1. Award Criteria    1. The procuring entity shall award the contract to the bidder whose bid has been determined to be the lowest priced or the most advantageous, as defined in ITB Sub-Clause 56.1. |
| 1. Notification of Award and Standstill Period    1. Prior to the expiration of the period of bid validity, the procuring entity shall notify all bidders, in writing, of the determination of the successful bid including all the information required by Section 44(2) of the Act.    2. The date of the notification under ITB Sub-Clause 60.1 establishes the commencement of the standstill period specified in the BDS. During this time bidders may query, apply for reconsideration or otherwise challenge the decision of the procuring entity. This may include a request for debriefing seeking explanations for the grounds on which their bids were not selected. |
| 1. Signing of contract    1. On the expiry of the standstill period the procuring entity shall send the successful bidder the Letter of Acceptance.    2. The successful bidder shall return the signed contract within 28 days from the date of the Letter of Acceptance and shall sign, date, and return to the procuring entity the signed Contract Agreement and performance security, if required, pursuant to ITB Clause 62.    3. On receipt of the signed Contract Agreement and performance security the procuring entity will immediately notify in writing all unsuccessful bidders, of the final results of the bidding process. This notice will discharge their bid securities pursuant to ITB Clause 32.4.    4. Following signature of the Contract Agreement, the procuring entity shall publish, in the manner prescribed by the Office, the results, identifying the name of the supplier, the contract price and the contract number. |
| 1. Performance Security    1. Within 28 days of receipt of the Letter of Acceptance 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.    2. Failure of the successful bidder to submit the above-mentioned performance security or sign the contract shall constitute sufficient grounds for the annulment of the award and forfeiture of the bid security. In that event the procuring entity may award the contract to the next ranked bidder, whose offer is substantially responsive and is determined by the procuring entity to be the lowest priced or most advantageous bid. |
| 1. Adjudicator    1. The procuring entity proposes the person named in the BDS to be appointed as Adjudicator under the contract, at an hourly fee specified in the BDS, plus reimbursable expenses. If the bidder disagrees with this bid, the bidder should so state in the bid. If, in the Letter of Acceptance, the procuring entity has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Special Conditions of contract at the request of either party. |

# Section II. Bidding Data Sheet

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| The following specific data for the non-consulting/general services to be procured shall complement, supplement, or amend the provisions in the ITB. **Whenever there is a conflict, the provisions herein shall prevail over those in ITB.**  *[Instructions for completing the Bid Data Sheet are provided, as needed, in square brackets and italics for the relevant ITB Clauses.]* | |
| **ITB Clause Reference** | **A. General** |
| **ITB 1.1** | The procuring entity is: *[insert complete name]* |
| **ITB 1.1** | The name and identification number of the ICB are: *[insert name and identification number]*  The number, identification and names of the lots comprising this ICB are: *[insert number; list the lots of non-consulting/general services]* |
| **ITB 1.3** | Bidding will be conducted in accordance with *[hard copy procedures or GOJEP procedures as further defined in the System: Quick for Suppliers].* |
| **ITB 2.1** | The name of the Project is: *[insert the name of the Project]* |
| **ITB 4.1** | Maximum number of members in the JV shall be: ***[insert a number]*** |
| **B. Contents of Bidding Documents** | |
| **ITB 8.5** | A site visit *[will/will not]* be organized as part of the pre-bid meeting. |
| **ITB 8.5** | A pre-bid meeting *[shall/shall not]* take place.  *[The pre-bid meeting shall take place at the following date, time and place:*  *Date:*  *Time:*  *Place:* ] |
| **ITB 8.6** | Any questions must be submitted *[insert number]* days before the date of the pre-bid meeting. |
| **ITB 9.1** | *[For hard copy bids:*  *For* ***Clarification of bid purposes*** *only, the procuring entity’s address is:*  *Attention: [insert name and room number of Project Officer]*  *Address: [insert street name and number]*  *[insert floor and room number, if applicable]*  City: *[insert name of city or town]*  *Postal Code: [insert postal code, if applicable]*  *Country: Jamaica*  *Facsimile number: [insert fax number**including country and city codes]*  *Electronic mail address: [insert e-mail address of Project Officer]]*  *[For electronic bids:*  *All clarifications must be submitted through the GOJEP System. Copies of all clarifications received will be available through the System.]*  Requests for clarification should be received by the procuring entity no later than: ***[insert no. of days]*** before the deadline for submission of bids stated at ITB 23.1. |
| **C. Preparation of First Stage Technical bid** | |
| **ITB 12.1 (d)** | The bidder shall submit the following additional documents in its bid: *[insert list of documents, if any, particularly pursuant to any administrative guidance issued by the Office]]* |
| **ITB 14.1** | Alternative bids [*shall/shall not*] be considered. |
| ITB 14.2 | Alternative technical solutions shall be permitted for the following parts of the goods: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.  If alternative technical solutions are permitted, the evaluation method will be as specified in Section III, Evaluation and Qualification Criteria. |
| ITB 15.2 (a) | In addition to the topics described in ITB Clause 16.2 (a), the Preliminary Project Plan must address the following topics: [modify as appropriate]:  Project Organization and Management Sub-Plan, including management authorities, responsibilities, and contacts, as well as task, time and resource-bound schedules (in GANTT format); |
| **ITB 17.1** | In addition to the original bid, the required number of copies is: *[insert number]*  *[In the case of an electronic bid only one bid will be submitted (uploaded) and this shall be the ORIGINAL.]* |
| **D. Submission and Opening of First Stage Technical bids** | |
| **ITB 18.1** | bids will be submitted in *[hard copy or electronically (GOJEP procedures are defined in the System: Quick Guide for Suppliers)].* |
| **ITB 18.2 (c)** | The inner and outer envelopes shall bear the following additional identification marks: *[insert the name and/or number that must appear on the bid envelope to identify this specific bidding process].* |
| **ITB 19.1** | For bid submission purposes, the procuring entity’s address is:  Attention: *[insert full name of person, if applicable, or insert name of the Project Officer]*  Address: *[insert street name and number]*  Floor-Room number: *[insert floor and room number, if applicable] [important to avoid delays or misplacement of bids]*  City: *[insert name of city or town]*  Jamaica  The deadline for the submission of bids is:  Date: *[insert day, month, and year, i.e. 15 June, 2016]*  Time: *[insert time, and identify if a.m. or p.m., i.e. 10:30 a.m.]* |
| **E. OPENING AND EVALUATION OF FIRST STAGE TECHNICAL BIDS** | |
| **ITB 22.1** | The bid opening shall take place at:  Street Address: *[insert street address and number]*  City: *[insert name of city or town]*  Jamaica  Date: *[insert day, month, and year, i.e. 15 June, 2016]*  Time: *[insert time, and identify if a.m. or p.m. i.e. 10:30 a.m.]* |
| **ITB 26.4** | [***Add the following if the procuring entity will carry out tests, to determine that the performance or functionality of the goods offered meets those stated in the Technical Requirements***]  As part of the first stage clarification process, the goods (or components/parts of it) offered by the bidder may be subjected to the following tests and performance benchmarks*: [specify: measures that will be used in the evaluation of Proposals, such as demonstration tests, performance benchmarks, documentation reviews, reference site visits, etc., and who will carry them out and how they will be conducted]*.  *[Note: For demonstration or benchmark tests, specify full testing details and success criteria (alternatively, reference detailed discussion of testing in the Technical Requirements).]* |
| **G Preparation of Second Stage Technical and Financial bid** | |
| **ITB 28.2 (e)** | ‘The bidder shall submit with its bid the following additional documents:  ***[list any additional document not already listed in ITB 29.2 that must be submitted with the Second Stage Technical bid]’*** |
| **ITB 28.4 (d)** | ‘The bidder shall submit with its bid the following additional documents:  ***[list any additional document not already listed in ITB 29.4 that must be submitted with the Second Stage Financial bid****, particularly pursuant to any administrative guidance issued by the Office****]’*** |
| **ITB 30.3** | The bidder *[insert “must” or “must not”]* Propose Recurrent Cost Items |
| **ITB 30.3 (a)** | The bidder *[insert “must” or “must not”]* propose for contracts of Recurrent Cost Items not included in the main contract. |
| **ITB 30.3** | The Incoterms edition is: ***[insert relevant edition].*** |
| **ITB 30.6(a) and (c)** | Named place of destinationis: *\_\_* **[*insert named Place of destination as per Incoterm used]*** *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*  Named place of final destination (or Project site) is: \_\_\_\_\_\_\_\_\_ [*insert name of location where the IS are to be actually Installed]* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **ITB 30.9** | The prices quoted by the bidder ***[insert “shall “or “shall not”] \_\_\_\_\_\_\_\_\_\_\_*** be subject to adjustment during the performance of the contract. |
| **ITB 31.1** | The bidder **[*insert “is” or “is not”’*] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**required to quote in the currency of the procuring entity’s Country the portion of the bid price that corresponds to expenditures incurred in that currency. |
| **ITB 32.1** | *[insert one of the following options]:*  [*No bid security is required. or*  *The bid shall include a bid security (issued by a bank or Surety) included in Section IV Bidding Forms.*] |
| **ITB 32.2** | The amount of the bid security shall be: *[insert amount]* |
| **ITB 33.1** | The bid validity period shall be *[insert number]* days. |
| **ITB 34.1** | In addition to the original bid, the required number of copies is: *[insert number]*  *[In the case of an electronic bid only one bid will be submitted (uploaded) and this shall be the ORIGINAL.]* |
| **ITB36.1** | For bid submission purposes, the procuring entity’s address is:  Attention: *[insert full name of person, if applicable, or insert name of the Project Officer]*  Address: *[insert street name and number]*  Floor-Room number: *[insert floor and room number, if applicable] [important to avoid delays or misplacement of bids]*  City: *[insert name of city or town]*  Jamaica  The deadline for the submission of bids is:  Date: *[insert day, month, and year, i.e. 15 June, 2016]*  Time: *[insert time, and identify if a.m. or p.m., i.e. 10:30 a.m.]* |
| **ITB 39.1** | The bid opening shall take place at:  Street Address: *[insert street address and number]*  City: *[insert name of city or town]*  Jamaica  Date: *[insert day, month, and year, i.e. 15 June, 2016]*  Time: *[insert time, and identify if a.m. or p.m. i.e. 10:30 a.m.]* |
| J. Second Stage: Evaluation of Technical Part | |
| **ITB 46.1** | BAFO (“applies” / “does not apply”)  If BAFO applies, the procedure will be: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **ITB 46.1** | The Letter of bid and Price Schedules shallbe initialed by *[insert number]* representatives of the procuring entity conducting bid opening*. [Insert procedure: Example: Each bid shall be numbered, any modification to the unit or total price shall be initialed by the Representative of the procuring entity, etc.]* |
| **ITB 49.1** | Bid prices expressed in different currencies shall be converted to: *[insert the name of the currency]*  The source of exchange rate shall be: procuring entity of Jamaica  The date for the exchange rate shall be *[insert date of deadline for bid submission]* |
| M. Stage 2: Evaluation of Combined Technical and Financial Part | |
| **ITB 54.1** | The weight to be given for cost X is: \_\_\_\_\_\_\_\_ *[indicate weight for cost such that weight for cost plus weight for total technical score is 1(one).]*  *[The relative weight to be assigned to cost should generally not be less than 70 %, but may be set as low as 50% if justified to achieve value for money].*  Interest Rate (I) for net present value calculations of recurrent costs (if any) is \_\_\_ ***[insert interest rate]*** percent per annum. |
| **ITB 57.1** | Negotiation (“applies” / “does not apply”)  If negotiation applies, the procedure: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |
| **N. Award Of Contract** | |
| **ITB 60.2** | The number of days for standstill shall be [\_\_\_\_\_\_\_] days.  *[Note: the maximum allowed by the Act is ten (10) days.]* |
| **ITB 63** | The Adjudicator proposed by the procuring entity is \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. The hourly fee for this proposed Adjudicator shall be \_\_\_\_\_\_\_\_\_\_\_\_. The biographical data of the proposed Adjudicator is as follows: \_\_\_\_\_\_\_\_\_\_\_\_. |

|  |
| --- |
| Section III. Evaluation and Qualification Criteria **(with prequalification)** |

This Section contains all the criteria that the procuring entity shall use to evaluate bids and qualify bidders. In accordance with ITB Clauses 35 to 38, no other factors, methods or criteria shall be used. The bidder shall provide all the information requested in the forms included in Section IV, Bidding Forms.

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

**Contents**

1. Combined Evaluation

2. Special and Differential Treatment Measures (ITB Sub-Clause 50.1)

3. Qualification Requirements (ITB Clause 25)

1. Combined Evaluation (ITB 54.1)

The procuring entity will evaluate and compare the Proposals that have been determined to be substantially responsive, pursuant to ITB 43.

If indicated by the BDS, the procuring entity’s evaluation of responsive Proposals will take into account technical factors, in addition to cost factors.

In such a case, an Evaluated bid Score (B) will be calculated for each responsive bid using the following formula, which permits a comprehensive assessment of the evaluated cost and the technical merits of each bid:

|  |
| --- |
| where  *C* = Evaluated bid Cost  *C low* = the lowest of all Evaluated Cost among responsive Proposals  *T* = the total Technical Score awarded to the bid  *Thigh* = the Technical Score achieved by the bid that was scored best among all responsive Proposals  *X* = weight for the Cost as specified in the BDS  The bid with the best evaluated bid Score (B) among responsive Proposals shall be the Most Advantageous bid provided the bidder is qualified to perform the contract. |

Evaluation of Technical Part (ITB 43)

|  |
| --- |
| The total technical points assigned to each bid in the Evaluated bid Formula will be determined by adding and weighting the scores assigned by an evaluation committee to technical features of the bid in accordance with the criteria set forth below.  (a) The technical features to be evaluated are generally defined below and specifically identified **in the BDS 44.1**:   1. to which extent that the performance, capacity, or functionality features meet or exceed the levels specified in the performance / functional requirements and/or influence the life-cycle cost and effectiveness of the goods. 2. usability features, such as ease of use, ease of administration, or ease of expansion, which influence the life-cycle cost and effectiveness of the goods. 3. quality of the bidder’s Preliminary Project Plan as evidenced by the thoroughness, reasonableness, and responsiveness of: (a) the task and resource schedules, both general and specific, and (b) the proposed arrangements for management and coordination, training, quality assurance, technical support, logistics, problem resolution, and transfer of knowledge, and other such activities as specified by the procuring entity or proposed by the bidder based on the bidder’s experience. 4. Any sustainable procurement requirement if specified in Section VII- Requirements of the goods.   (b) Feature scores will be grouped into a small number of evaluation categories, generally defined below and specifically identified in the BDS, namely:  (i) The technical features that reflect how well the goods meets the procuring entity’s technical requirements (including quality assurance and risk-containment measures associated with the implementation of the goods).  (ii) The technical features that reflect how well the goods meet any performance standards.  (iii) (c) As specified **in the BDS**, each category will be given a weight and within each category each feature may also be given a weight.  (d) During the evaluation process, the evaluation committee will assign each feature a whole number score from 0 to 4, where 0 means that the feature is absent, and 1 to 4 either represent predefined values for the features amenable to an objective way of rating , or if the feature represents a functionality or a quality improving the prospects for a successful implementation (such as the strengths of the proposed project staff, the methodology, the elaboration of the project plan, etc., in the bid), the scoring will be 1 for the feature being present but showing deficiencies; 2 for meeting the requirements; 3 for marginally exceeding the requirements; and 4 for significantly exceeding the requirements.  (e) The score for each feature (i) within a category (j) will be combined with the scores of features in the same category as a weighted sum to form the Category Technical Score using the following formula:  where:  *tji* = the technical score for feature “i” in category “j”  *wji* = the weight of feature “i” in category “j”  *k* = the number of scored features in category “j”  and  (f) The Category Technical Scores will be combined in a weighted sum to form the total Technical bid Score using the following formula:  where:  *Sj* = the Category Technical Score of category “j”  *Wj* = the weight of category “j” as specified in the BDS  *n* = the number of categories and |

Evaluation of Financial Part (ITB 51.1 f)

The following factors and methods will apply:

**(a)** **Time Schedule**:

Time to complete the contract from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities is: \_\_\_\_\_. No credit will be given for earlier completion.

**or**

Time to complete the contract from the effective date specified in Article 3 of the Contract Agreement for determining time for completion of pre-commissioning activities shall be between *\_\_\_\_\_\_\_\_\_* minimum and *\_\_\_\_\_\_\_\_\_\_\_\_\_\_* maximum. The adjustment rate in the event of completion beyond the minimum period shall be *\_\_\_\_\_\_\_\_\_\_\_\_\_* for each week of delay from that minimum period. No credit will be given for completion earlier than the minimum designated period. Proposals offering a completion date beyond the maximum designated period shall be rejected.

**(b) Recurrent Costs**

Since the operation and maintenance of the system being procured form a major part of the implementation, the resulting recurrent costs will be evaluated according to the principles given hereafter, including the cost of recurrent cost items for the initial period of operation stated below, based on prices furnished by each bidder in Price Schedule Nos. 3.3 and 3.5.

Recurrent cost items for post- warranty service period if subject to evaluation shall be included in the main contract or a separate contract signed together with the main contract.

Such costs shall be added to the bid price for evaluation.

Option 1: The recurrent costs factors for calculation of the implementation schedule are:

(i) number of years for implementation

(ii) any maintenance

(iii) any licenses and updates

(iv) technical services

(v) any external services, and

(vi) other services (if any).

The Recurrent Costs (R) are reduced to net present value and determined using the following formula:



where

*N* = number of years of the Warranty Period, defined in SCC Clause 29.4

*M* = number of years of the Post-Warranty services Period, as defined in SCC Clause 1.1.(e) (xii)

*x* = an index number 1, 2, 3, ... N + M representing each year of the combined Warranty Service and Post-Warranty Service Periods.

*Rx* = total Recurrent Costs for year “*x*,” as recorded in the Recurrent Cost Sub-Table.

*I* = discount rate to be used for the Net Present Value calculation, as **specified in the BDS 54.1**

**or** Option 2:

Reference to the methodology specified in the Specification or elsewhere in the bid document

**(c) Specific additional criteria**

The relevant evaluation method, if any, shall be as follows: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

**3. Qualification Requirements (ITB Clause 25)**

The procuring entity shall carry out the qualification of the bidder in accordance with ITB Clause 40, using only the requirements specified. Requirements not included in the text below shall not be used in the evaluation of the bidder’s qualifications.

* + - * 1. **Update of Information**

The bidder shall continue to meet the eligibility and qualification criteria used at the time of prequalification.

* + - * 1. **Financial Resources**

Using the relevant forms in Section IV, Bidding Forms, the bidder must demonstrate access to, or availability of, financial resources such as liquid assets, unencumbered real assets, lines of credit, and other financial means, other than any contractual advance payments to meet:

(i) the following cash-flow requirement:…………………………………………………………………, and

(ii) the overall cash flow requirements for this contract and its current contractual commitment.

The successful bidder will also be required to furnish a valid Tax Compliance Certificate (TCC) or Tax Compliance Letter (TCL) as part of their bid.

* + - * 1. **Personnel**

The bidder must demonstrate that it has the personnel for the key positions that meet the following requirements:

|  |  |  |  |
| --- | --- | --- | --- |
| **No.** | **Position** | **Total Work Similar Experience (years)** | **In Similar Works Experience**  **(years)** |
| 1 |  |  |  |
| 2 |  |  |  |
| 3 |  |  |  |
| 4 |  |  |  |
| 5 |  |  |  |
|  |  |  |  |

The bidder shall provide details of the proposed personnel and their experience records in the relevant forms included in Section IV, Bidding Forms.

* + - * 1. **Subcontractors/vendors/manufacturers**

Subcontractors/vendors/manufacturers for major items of supply or services identified in the prequalification document must meet orcontinue to meet the minimum criteria specified therein for each item.

Subcontractors for the following additional major items of supply or services must meet the following minimum criteria, herein listed for that item:

|  |  |  |
| --- | --- | --- |
| **Item No.** | **Description of Item** | **Minimum Criteria to be met** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| … |  |  |

Failure to comply with this requirement will result in the rejection of the subcontractor.

In the case of a bidder who offers to supply and install major items of supply under the contract that the bidder did not manufacture or otherwise produce, the bidder shall provide the manufacturer’s authorization, using the form provided in Section IV, showing that the bidder has been duly authorized by the manufacturer or producer of the related sub system or component to supply and/or install that item in Jamaica. The bidder is responsible for ensuring that the manufacturer or producer complies with the requirements of ITB 4 and ITB 5 and meets the minimum criteria listed above for that item.

# Section IV. Bidding Forms

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**Bid Submission Form – First Stage Technical bid**

Date: *[bidder insert:* ***date of bid]***

bid: *[procuring entity insert:* ***bid name and number****]*

contract: *[procuring entity insert:* ***name of contract****]*

To: [*procuring entity insert:* ***name and address of procuring entity****]*

Dear Sir or Madam:

Having examined the request for bid document, including Addenda Nos. *[ insert* ***numbers****]*, the receipt of which is hereby acknowledged, we, the undersigned, offer to supply, install, achieve Operational Acceptance of, and support the goods under the above-named contract in full conformity with the said request for bid document.

We confirm that if you invite us to attend a Clarification Meeting(s) for the purpose of reviewing our First Stage bid at a place and date of your choice, we will endeavor to attend this/these meeting(s) at our own cost, and will duly note the amendments and additions to, and omissions from, our First Stage bid that you may require. We accept that we alone carry any risk for failing to reach clarification of our bid in case this failure is due to our inability to attend duly scheduled Clarification Meeting(s).

We undertake, upon receiving your written invitation, to proceed with the preparation of our Second Stage bid, updating the First Stage bid in accordance with the requirements, if any, specified in (a), the memorandum, specific for our First Stage bid, titled “Changes Required Pursuant to First Stage Evaluation” and any updates to this memorandum, and (b), Addenda to the ITB issued together or after the invitation for the second stage. The Second Stage bid will also include our commercial bid in accordance with the requirements of the bid documents for Second Stage Proposals, for performing the contract in accordance with our updated technical bid.

*[As appropriate, include or delete the following paragraph]*

We accept the appointment of *[procuring entity insert:* ***name of proposed Adjudicator*** *from the bid Data Sheet]*as the Adjudicator.

*[And delete the following paragraph, or, as appropriate, delete the above and include the following, or, if no Adjudicator is stated in the bid Data Sheet, delete both the above and the following]*

We do not accept the appointment of *[procuring entity insert:* ***name of proposed Adjudicator*** *from the bid Data Sheet]*as the Adjudicator, and we propose instead that *[insert:* ***name****]* be appointed as Adjudicator, whose résumé and hourly fees are attached.

We hereby certify that the Software offered in this bid and to be supplied under the contract (i) either is owned by us, or (ii) if not owned by us, is covered by a valid license from the proprietor of the Software.

We hereby certify that meet the eligibility requirements and have no conflict of interest in accordance with ITB 4.

Further, we are not ineligible under the laws of the Government of Jamaica;

We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

We agree to abide by this First Stage bid, which, in accordance with ITB Clauses 13, consists of this letter (First Stage bid Form) and the enclosures listed below. Together with the above written undertakings, the bid shall remain binding on us. We understand that we may withdraw our bid, or any alternative bid included in it, at any time by so notifying you in writing. However, we accept that if invited to the second stage, once we have submitted a Second Stage bid, this bid (and the parts of the First Stage Proposals it includes and updates) can only be withdrawn before the deadline for submission of Second Stage Proposals, and only by the formal Second Stage bid withdrawal procedure stipulated in the bid documents.

**Name of the bidder**: \*[*insert complete name of person signing the bid*]

**Name of the person duly authorized to sign the bid on behalf of the bidder**: \*\* [*insert complete name of person duly authorized to sign the bid*]

**Title of the person signing the bid**: [*insert complete title of the person signing the bid*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

ENCLOSURES:

Signature Authorization *[plus, in the case of a Joint Venture bidder, list all other authorizations pursuant to ITB Clause 4.1]*

Attachment 1 Bidder’s Eligibility

Attachment 2 Updated Bidder’s Qualifications (including Manufacturer’s Authorizations and Subcontractor Agreements if and as required)

Attachment 3 Proposed Subcontractors

Attachment 4 Intellectual Property

Attachment 5 Conformity of the goods to the bid documents

Attachment 6 Deviations

Attachment 7 Alternative Proposals

*[List any further attachments or other enclosures]*

**Bid Table of Contents and Checklist**

**Note:** Bidders should expand and (if appropriate) modify and complete the following table. The purpose of the table is to provide the bidder with a summary checklist of items that must be included in the First Stage bid, as described in ITB Clauses 13. It also provides a summary page reference scheme to ease and speed the procuring entity’s bid evaluation process.

|  |  |  |
| --- | --- | --- |
| item | present: y/n | page no. |
| First Stage Technical-Only bid Submission Form |  |  |
| Signature Authorization (for Joint Ventures additionally including the authorizations listed in ITB Clause 6.2) |  |  |
| Attachment 1: Bidder’s Eligibility |  |  |
| Attachment 2: Bidder’s Qualifications (any updates) |  |  |
| Manufacturer’s Authorizations |  |  |
| Subcontractor’s Agreements |  |  |
| Attachment 3: Proposed Subcontractors |  |  |
| Attachment 4: Intellectual Property |  |  |
| Attachment 5: Conformity of the goods to the bid documents |  |  |
| Attachment 6: Deviations |  |  |
|  |  |  |

**Bid Submission Form - Second Stage -Technical Part**

*INSTRUCTIONS TO BIDDERS*

|  |
| --- |
| *INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT*  *Place this Letter of bid in the first envelope “TECHNICAL PART”.*  *The bidder must prepare the Letter of bid on stationery with its letterhead clearly showing the bidder’s complete name and business address.*  *Note: All italicized text in black font is to help bidders in preparing this form and bidders shall delete it from the final document.* |

**Date of this bid submission**: [*insert date (as day, month and year) of bid submission*]

**bid No.:** [*insert number of bid process*]

**ITB bid No.**: [*insert identification*]

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

To: [*procuring entity insert:* ***name and address of procuring entity****]*

Dear Sir or Madam:

We, the undersigned bidder, hereby submit our bid, in two parts, namely:

1. the Technical Part, and
2. the Financial Part.

Having examined the bid documents, the Addenda issued during the first stage, Addenda Nos. *[ insert:* ***numbers****]* issued with or after the Invitation to Bid – Second Stage, the receipt of which is hereby acknowledged, as well as the requirements listed in the memorandum titled “Changes Required Pursuant to First Stage Evaluation” specific to our First Stage bid, and any updates to this memorandum, we, the undersigned, offer to supply, install, achieve Operational Acceptance of, and support the goods under the above-named contract in full conformity with the said bid documents, Addenda and memorandum.

We undertake, if our bid is accepted, to commence work on the contract and achieve Installation and Operational Acceptance within the respective times stated in the bid documents.

*[As appropriate, include or delete the following paragraph]*

We accept the appointment of *[procuring entity insert:* ***name of proposed Adjudicator*** *from the bid Data Sheet]*as the Adjudicator.

*[And delete the following paragraph, or, as appropriate, delete the above and include the following, or, if no Adjudicator is stated in the bid Data Sheet, delete both the above and the following]*

We do not accept the appointment of *[procuring entity insert:* ***name of proposed Adjudicator*** *from the bid Data Sheet]*as the Adjudicator, and we propose instead that *[insert:* ***name****]* be appointed as Adjudicator, whose résumé and hourly fees are attached.

We hereby certify that the Software offered in this bid and to be supplied under the contract (i) either is owned by us, or (ii) if not owned by us, is covered by a valid license from the proprietor of the Software.

We hereby certify that meet the eligibility requirements and have no conflict of interest in accordance with ITB 4.

Further, we are not ineligible under the laws of Jamaica;

We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf engages in any type of Fraud and Corruption.

We agree to abide by this bid, which, in accordance with ITB 29 and 30, consists of this letter (Second Stage Technical Part) and the enclosures listed below, for a period of *[ insert:* ***number from ITB -- Second Stage****]*days from the date fixed for submission of Proposals as stipulated in the Invitation to Bid-- Second Stage or subsequent Addenda to the bid documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

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

**Name of the bidder**: \*[*insert complete name of person signing the bid*]

**Name of the person duly authorized to sign the bid on behalf of the bidder**: \*\* [*insert complete name of person duly authorized to sign the bid*]

**Title of the person signing the bid**: [*insert complete title of the person signing the bid*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

\*: In the case of the bid submitted by a Joint Venture specify the name of the Joint Venture as bidder.

\*\*: Person signing the bid shall have the power of attorney given by the bidder. The power of attorney shall be attached with the bid Schedules.

ENCLOSURES:

Signature Authorization *[plus, in the case of a Joint Venture bidder, list all other authorizations pursuant to ITB Clause 4.1]*

Attachment 1 bidder’s Eligibility

Attachment 2 Any update to the proposers Qualifications (including Manufacturer’s Authorizations and Subcontractor Agreements if and as required)

Attachment 3 Proposed Subcontractors

Attachment 4 Intellectual Property

Attachment 5 Conformity of the goods to the bid documents

*[If appropriate, specify further attachments or other enclosures]*

**Bid Submission Form - Second Stage -Financial Part**

*INSTRUCTIONS TO BIDDERS*

|  |
| --- |
| *INSTRUCTIONS TO BIDDERS: DELETE THIS BOX ONCE YOU HAVE COMPLETED THE DOCUMENT*  *Place this Letter of bid in the second envelope “FINANCIAL PART”.*  *The bidder must prepare the Letter of bid on stationery with its letterhead clearly showing the bidder’s complete name and business address.*  *Note: All italicized text in black font is to help bidders in preparing this form and bidders shall delete it from the final document.* |

**Date of this bid submission**: [*insert date (as day, month and year) of bid submission*]

**bid No.:** [*insert number of bid process*]

**ITB No.**: [*insert identification*]

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

To: [*procuring entity insert:* ***name and address of procuring entity****]*

Dear Sir or Madam:

We, the undersigned bidder, hereby submit the second part of our bid, the Financial Part

Having examined the bid documents, the Addenda issued during the first stage, Addenda Nos. *[ insert:* ***numbers****]* issued with or after the Invitation to Bid – Second Stage, the receipt of which is hereby acknowledged, as well as the requirements listed in the memorandum titled “Changes Required Pursuant to First Stage Evaluation” specific to our First Stage bid, and any updates to this memorandum, we, the undersigned, offer to supply, install, achieve Operational Acceptance of, and support the goods under the above-named contract in full conformity with the said bid documents, Addenda and memorandum for the total sum of:

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | *[ insert:* ***amount of local currency in words****]* | (*[ insert:*  ***amount of local currency in figures from corresponding Grand Total entry of the Grand Summary Cost Tabl****e ]*) |
|  | plus | [*insert:* ***amount of foreign currency A in words****]* | (*[ insert:* ***amount of foreign currency A in figures from corresponding Grand Total entry of the Grand Summary Cost Table****])* |
|  | *[ as appropriate, add the following]* | | |
|  | plus | *[ insert:* ***amount of foreign currency B in words****]* | (*[ insert:* ***amount of foreign currency B in figures from corresponding Grand Total entry of the Grand Summary Cost Table****]*) |
|  | plus | *[ insert:* ***amount of foreign currency C in words****]* | ([*insert:*  ***amount of foreign currency C in figures from corresponding Grand Total entry of the Grand Summary Cost Table****]*) |

Or such other sums as may be determined in accordance with the terms and conditions of the contract. The above amounts are in accordance with the Price Schedules attached herewith and made part of this bid.

The discounts offered and the methodology for their application are:

(i) The discounts offered are: [*Specify in detail each discount offered*]

(ii) The exact method of calculations to determine the net price after application of discounts is shown below: [*Specify in detail the method that shall be used to apply the discounts*];

If our bid is accepted, we undertake to provide an advance payment security and a performance security in the form, in the amounts, and within the times specified in the bid documents.

We agree to abide by this bid, which, in accordance with ITB Clauses 28 and 29, consists of this letter (Second Stage bid Form) and the enclosures listed below, for a period of *[ insert:* ***number from ITB -- Second Stage****]*days from the date fixed for submission of Proposals as stipulated in the Invitation to Bid -- Second Stage or subsequent Addenda to the bid documents, and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.

**Commissions, gratuities and fees:** We have paid, or will pay the following commissions, gratuities, or fees with respect to the bid process or execution of the contract: [*insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity*].

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

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

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

**Name of the bidder**: \*[*insert complete name of the bidder*]

**Name of the person duly authorized to sign the bid on behalf of the bidder**: \*\* [*insert complete name of person duly authorized to sign the bid*]

**Title of the person signing the bid**: [*insert complete title of the person signing the bid*]

**Signature of the person named above**: [*insert signature of person whose name and capacity are shown above*]

**Date signed** [*insert date of signing*] **day of** [*insert month*], [*insert year*]

\*: In the case of the bid submitted by a Joint Venture specify the name of the Joint Venture as bidder.

\*\*: Person signing the bid shall have the power of attorney given by the bidder. The power of attorney shall be attached with the bid Schedules.

ENCLOSURES:

Signature Authorization *[plus, in the case of a Joint Venture bidder, list all other authorizations pursuant to ITB Clause 4.1]*

bid-Securing Declaration or bid-Security (if and as required)

Price Schedules

*[If appropriate, specify further attachments or other enclosures]*

**Second Stage bid Table of Contents and Checklist**

**Note:** Bidders should expand and (if appropriate) modify and complete the following table. The purpose of the table is to provide the bidder with a summary checklist of items that must be included in the Second Stage bid as described in ITB Clause 28 and 29, in order for the bid to be considered for contract award. The table also provides a summary page reference scheme to ease and speed the procuring entity’s bid evaluation process.

|  |  |  |
| --- | --- | --- |
| Item | present: y/n | page no. |
| Second Stage Combined Technical and Financial bid Submission Form |  |  |
| Signature Authorization (for Joint Ventures additionally including the authorizations listed in ITB Clause 6.2) |  |  |
| bid-Securing Declaration or bid-Security (if and as required) |  |  |
| Price Schedules |  |  |
| Attachment 1: bidder’s Eligibility |  |  |
| Attachment 2: bidder’s Qualifications |  |  |
| Manufacturer’s Authorizations |  |  |
| Subcontractor’s Agreements |  |  |
| Attachment 3: Proposed Subcontractors |  |  |
| Attachment 4: Intellectual Property |  |  |
| Attachment 5: Conformity of the goods to the bid documents |  |  |
|  |  |  |

**Price Schedule Forms**

## Notes to bidders on working with the Price Schedules

**General**

1. The Price Schedules are divided into separate Schedules as follows:

3.1 Grand Summary Cost Table

3.2 Supply and Installation Cost Summary Table

3.3 Recurrent Cost Summary Table

3.4 Supply and Installation Cost Sub-Table(s)

3.5 Recurrent Cost Sub-Tables(s)

3.6 Country of Origin Code Table

*[Insert:* ***any other Schedules as appropriate****]*

2. The Schedules do not generally give a full description of the information technologies to be supplied, installed, and operationally accepted, or the services to be performed under each item. However, it is assumed that bidders shall have read the Technical Requirements and other sections of these bid documents to ascertain the full scope of the requirements associated with each item prior to filling in the rates and prices. The quoted rates and prices shall be deemed to cover the full scope of these Technical Requirements, as well as overhead and profit.

3. If bidders are unclear or uncertain as to the scope of any item, they shall seek clarification in accordance with the Instructions to bidders in the bid documents prior to submitting their bid.

**Pricing**

4. Prices shall be filled in indelible ink, and any alterations necessary due to errors, etc., shall be initialed by the bidder. As specified in the bid Data Sheet, prices shall be fixed and firm for the duration of the contract.

5. Bid prices shall be quoted in the manner indicated and in the currencies specified in the ITB. Prices must correspond to items of the scope and quality defined in the Technical Requirements or elsewhere in these bid documents.

6. Payments will be made to the Supplier in the currency or currencies indicated under each respective item. As specified in the ITB, no more than three foreign currencies may be used.

**3.1**  **Grand Summary Cost Table**

|  |  | ***[****insert****: Local Currency] Price*** | ***[****insert****: Foreign Currency A]  Price*** | ***[****insert****: Foreign Currency B]  Price*** | ***[****insert****: Foreign Currency C]  Price*** |
| --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |
| 1. | Supply and Installation Costs (from Supply and Installation Cost Summary Table) |  |  |  |  |
| 2. | Recurrent Costs (from Recurrent Cost Summary Table) |  |  |  |  |
|  |  |  |  |  |  |
| 3. | Grand Totals (to Letter of Bid) |  |  |  |  |

|  |  |  |
| --- | --- | --- |
| Name of bidder: |  |  |
| Authorized Signature of bidder: |  |  |

**3.2**  **Supply and Installation Cost Summary Table**

Costs MUST reflect prices and rates quoted in accordance with ITB 17 and 18.

|  |  |  | **Supply & Installation Prices** | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  | **Locally supplied items** | **Items supplied from outside Jamaica** | | | |
| **Line Item No.** | **Major component / Item** | **Supply and Installation Cost Sub-Table No.** | ***[****insert****: Local Currency]*** Price | ***[****insert****: Local Currency]*** Price | ***[****insert****: Foreign Currency A]*** Price | ***[****insert****: Foreign Currency B]*** Price | ***[****insert****: Foreign Currency C]*** Price |
|  |  |  |  |  |  |  |  |
| 0 | Project Plan | - - | - - | - - | - - | - - | - - |
| 1 | Major component 1 | 1 |  |  |  |  |  |
| SUBTOTALS | | | |  |  |  |  |
| TOTAL (To Grand Summary Table) | | | |  |  |  |  |

**Note:** - - indicates not applicable. “Indicates repetition of table entry above. Refer to the relevant Supply and Installation Cost Sub-Table for the specific components that constitute each major component or line item in this summary table

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Name of bidder: |  |  |
|  |  |  |
| Authorized Signature of bidder: |  |  |
|  |  |  |

**3.3**  **Recurrent Cost Summary Table**

Costs MUST reflect prices and rates quoted in accordance with ITB 17 and ITB 18.

| **Line Item No.** | **Major component / Item** | **Recurrent Cost Sub-Table No.** | ***[****insert****: Local Currency] Price*** | ***[****insert****: Foreign Currency A] Price*** | ***[****insert****: Foreign Currency B] Price*** | ***[****insert****: Foreign Currency C] Price*** |
| --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |
| y | Recurrent Cost Items |  |  |  |  |  |
| y.1 | \_\_\_\_ | y.1 |  |  |  |  |
|  |  |  |  |  |  |  |
|  | Subtotals (to Grand Summary Table) | |  |  |  |  |

**Note:** Refer to the relevant Recurrent Cost Sub-Tables for the specific components that constitute the major component or line item in this summary table.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Name of bidder: |  |  |
|  |  |  |
| Authorized Signature of bidder: |  |  |

**3.4**  **Supply and Installation Cost Sub-Table *[insert: identifying number]***

Line item number: [*specify:* ***relevant line item number from the Supply and Installation Cost Summary Table*** *(e.g., 1.1)]*

Prices, rates, and subtotals MUST be quoted in accordance with ITB 17 and ITB 18.

|  |  |  |  | **Unit Prices / Rates** | | | | | **Total Prices** | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  | **Supplied Locally** | **Supplied from outside Jamaica** | | | | **Supplied Locally** | **Supplied from outside Jamaica** | | | |
| **Compo­nent  No.** | **Component Description** | **Country of Origin Code** | **Quan­tity** | ***[*** *insert:* ***local currency]*** | ***[*** *insert:* ***local currency]*** | ***[*** *insert:* ***foreign currency A]*** | ***[*** *insert* ***foreign currency B]*** | ***[*** *insert:* ***foreign currency C]*** | ***[*** *insert:* ***local currency]*** | ***[*** *insert:* ***local currency]*** | ***[*** *insert:* ***foreign currency A]*** | ***[*** *insert:* ***foreign currency B]*** | ***[*** *insert:* ***foreign currency C]*** |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| X.1 | \_\_\_\_ | - - | - - | - - | - - | - - | - - | - - |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| Subtotals (to *[ insert:* ***line item****]* of Supply and Installation Cost Summary Table) | | | | | | | | |  |  |  |  |  |

**Note:** - - indicates not applicable.

|  |  |  |
| --- | --- | --- |
|  |  |  |
| Name of bidder: |  |  |
|  |  |  |
| Authorized Signature of bidder: |  |  |

**3.5** **Recurrent Cost Sub-Table [*insert: identifying number] -- Warranty Period***

Lot number: [*if a multi-lot procurement, insert:* ***lot number,*** *otherwise state* ***“single lot procurement”]***

Line item number**: [***specify:* ***relevant line item number from the Recurrent Cost Summary Table******–*** *(e.g., y.1)]*

Currency: **[***specify:* ***the currency of the Recurrent Costs in which the costs expressed in this Sub-Table are expressed****]*

*[As necessary for operation of the goods specify:* ***the detailed components and quantities in the Sub-Table below for the line item specified above, modifying the sample components and sample table entries as needed.*** *Repeat the Sub-Table as needed to cover each and every line item in the Recurrent Cost Summary Table that requires elaboration.****]***

Costs MUST reflect prices and rates quoted in accordance with ITB 17 and ITB 18.

|  |  | Maximum all-inclusive costs (for costs in *[ insert:* ***currency****]*) | | | | | | |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Component  No. | Component | Y1 | Y2 | Y3 | Y4 | ... | Yn | Sub-total for *[ insert:* ***currency****]* |
| 1. | Maintenance | Incl. in Warranty | Incl. in Warranty | Incl. in Warranty |  |  |  |  |
| 2. | Licenses & Updates | Incl. in Warranty |  |  |  |  |  |  |
| 3. | Technical services |  |  |  |  |  |  |  |
| 4. | External costs [to be detailed] |  |  |  |  |  |  |  |
| 5. | [Identify other recurrent costs as may apply] |  |  |  |  |  |  |  |
|  | Annual Subtotals: |  |  |  |  |  |  | - - |
| Cumulative Subtotal (to *[ insert:* ***currency]*** entry for *[ insert:* ***line item***] in the Recurrent Cost Summary Table) | | | | | | | |  |

|  |  |  |
| --- | --- | --- |
| Name of bidder: |  |  |
|  |  |  |
| Authorized Signature of bidder: |  |  |
|  |  |  |

**Technical Capabilities**

|  |
| --- |
| Name of bidder or partner of a Joint Venture |

The bidder shall provide adequate information to demonstrate clearly that it has the technical capability to meet the requirements for the goods. With this form, the bidder should summarize important certifications, proprietary methodologies, and/or specialized technologies that the bidder proposes to utilize in the execution of the contract or contracts.

**Manufacturer’s Authorization**

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

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

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

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

To: [*insert complete name of procuring entity]*

WHEREAS

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

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

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

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

Title: *[insert title]*

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

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

**Subcontractor’s Agreement**

Note: This agreement should be written on the letterhead of the Subcontractor and be signed by a person with the proper authority to sign documents that are binding on the Subcontractor.

Invitation for bids Title and No.: [*procuring entity insert: Ref Title and Number]*

To: [*procuring entity insert: procuring entity’s Officer to receive the Subcontractor’s Agreement]*

WHEREAS *[ insert: Name of Subcontractor ],* having head offices at *[ insert: address of Subcontractor ],* have been informed by *[ insert: name of bidder or Joint Venture ]* located at *[ insert: address of bidder or Joint Venture ]* (hereinafter, the “bidder”) that it will submit a bid in which *[ insert: Name of Subcontractor ]* will provide *[ insert: items of supply or services provided by the Subcontractor ].*  We hereby commit to provide the above-named items, in the instance that the bidder is awarded the contract.

Name *[insert: Name of Officer]* in the capacity of *[insert: Title of Officer]*

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Duly authorized to sign the authorization for and on behalf of: *[insert: Name of Subcontractor]*

Dated this *[ insert: ordinal]* day of [*insert: month]*, *[ insert: year]*.

*[add Corporate Seal (where appropriate)]*

**List of Proposed Subcontractors**

|  |  |  |  |
| --- | --- | --- | --- |
|  | Item | Proposed Subcontractor | Place of Registration & Qualifications |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
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|  |  |  |  |
|  |  |  |  |

**Intellectual Property Forms**

Notes to bidders on working with the Intellectual Property Forms

In accordance with ITB 11.1(j), bidders must submit, as part of their bids, list all intellectual property rights 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 procuring entity. These are needed to support the Intellectual Property in the GCC and SCC.

**List of Custom Materials**

|  |
| --- |
| Custom Materials |
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|  |

**Conformance of the Goods**

**Format of the Technical bid**

*In accordance with ITB 15.2, the documentary evidence of conformity of the to the bidding documents includes (but is not restricted to):*

*(a). The bidder’s Preliminary Project Plan, including, but not restricted, to the topics specified in the BDS ITB 15.2. The Preliminary Project Plan should also state the bidder’s assessment of the major responsibilities of the procuring entity and any other involved third parties in supply and installation, as well as the bidder’s proposed means for coordinating activities by each of the involved parties to avoid delays or interference.*

*(b). A written confirmation by the bidder that, if awarded the contract, it shall accept responsibility for successful integration and interoperability of all the proposed technologies included in the goods, as further specified in the Technical Requirements.*

*(c). Item-by-Item Commentary on the Technical Requirements demonstrating the substantial responsiveness of the overall design of the goods and the individual technologies and services offered to those Technical Requirements.*

*In demonstrating the responsiveness of its bid, the bidder must use the Technical Responsiveness Checklist (Format). Failure to do so increases significantly the risk that the bidder’s Technical bid will be declared technically non-responsive. Among other things, the checklist should contain explicit cross-references to the relevant pages in supporting materials included the bidder’s Technical bid.*

*Note: The Technical Requirements are voiced as requirements of the supplier and/or the goods. The bidder’s response must provide clear evidence for the evaluation team to assess the credibility of the response. A response of “yes” or “will do” is unlikely to convey the credibility of the response. The bidder should indicate that – and to the greatest extent practical – how the bidder would comply with the requirements if awarded the contract. Whenever the technical requirements relate to feature(s) of existing products, the features should be described and the relevant product literature referenced. When the technical requirements relate to professional services some effort should be expended to describe how they would be rendered – not just a commitment to perform the [cut-and-paste] requirement. Whenever a technical requirement is for the supplier to provide certifications (e.g., ISO 9001), copies of these certifications must be included in the Technical bid.*

*Note: The Manufacture’s Authorizations (and any Subcontractor Agreements) are to be included in Attachment 2 (bidder Qualifications), in accordance with and ITB 13.*

*Note: As a matter of practice, the contract cannot be awarded to a bidder whose Technical bid deviates (materially) from the Technical Requirements – on any Technical Requirement. Such deviations include omissions (e.g., non-responses) and responses that do not meet or exceed the requirement. Extreme care must be exercised in the preparation and presentation of the responses to all the Technical Requirements.*

*(d). Supporting materials to underpin the Item-by-item Commentary on the Technical Requirements (e.g., product literature, white-papers, narrative descriptions of technical approaches to be employed, etc.). In the interest of timely bid evaluation and contract award, bidders are encouraged not to overload the supporting materials with documents that do not directly address the procuring entity’s requirements.*

*(e). Any separate and enforceable contract(s) for Recurrent Cost items which the BDS ITB 30.3 required bidders to bid.*

*Note: To facilitate bid evaluation and contract award, bidders encouraged to provide electronic copies of their Technical bid – preferably in a format that the evaluation team can extract text from to facilitate the bid clarification process and to facilitate the preparation of the bid Evaluation Report.*

**Technical Responsiveness Checklist (Format)**

|  |  |
| --- | --- |
| Tech.  Require.  No. \_ | Technical Requirement:  *[ insert: abbreviated description of Requirement]* |
| Bidder’s technical reasons supporting compliance: | |
| Bidder’s cross references to supporting information in Technical bid: | |

**Bid Security (Guarantee)**

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

*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
[procuring entity’s Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ *[Name and Address of procuring entity]*

[*Indicate here if this guarantee is for an alternative bid and, if so, identify the details of the alternative bid, if applicable.]*

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

**BID GUARANTEE No.:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

We have been informed that *[name of the bidder or Joint Venture, showing also the names of all the members thereof]* (hereinafter called "the bidder") has submitted to you its bid dated (hereinafter called "the bid") for the execution of *[name of contract]* under International Competitive Bid No. *[Ref number]* (“the ICB”).

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

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

* + 1. has materially modifies or withdrawn its bid during the period of bid validity specified by the bidder in the Letter of Bid; or
    2. if a bidder does not accept a correction of errors in accordance with ITB Clause 30.4; or
    3. having been notified of the acceptance of its bid by the procuring entity during the period of bid validity, (i) fails or refuses to execute the contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to bidders.

This guarantee will expire: (a) if the bidder is the successful bidder, upon our receipt of copies of the contract signed by the bidder and the performance security issued to you upon the instruction of the bidder, in relation to such contract agreement; or (b) if the bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the bidder that the contract with the successful bidder has been executed; or (ii) twenty-eight days after the expiration of the validity of the bidder’s bid.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date. This guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 758.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*[signature(s)]*

**Bid Security (Bid Bond)**

*[The Surety shall fill in this bid Bond Form in accordance with the instructions indicated.]*

BOND NO. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BY THIS BOND *[name of bidder]* as Principal (hereinafter called “the Principal”), and *[name, legal title, and address of surety],* **authorized to transact business in Jamaica***,* as Surety (hereinafter called “the Surety”), are held and firmly bound unto *[name of procuring entity]* as Obligee (hereinafter called “the procuring entity”) in the sum of *[amount of Bond]*[[1]](#footnote-1) *[amount in words]*, for the payment of which sum, well and truly to be made, we, the said Principal and Surety, bind ourselves, our successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal has submitted a written bid to the procuring entity dated the \_\_\_ day of \_\_\_\_\_\_, 20\_\_, for the supply of *[name of contract]* (hereinafter called the “bid”).

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal:

1. materially or withdraws its bid during the period of bid validity specified in the Letter of Bid; or
2. if a bidder does not accept a correction of errors in accordance with ITB Clause 30.4; or
3. having been notified of the acceptance of its bid by the procuring entity during the period of bid validity or any extension provided by the Principal; (i) fails or refuses to execute the contract Form; or (ii) fails or refuses to furnish the performance security, if required, in accordance with the Instructions to bidders of the procuring entity’s bidding document.

then the Surety undertakes to immediately pay to the procuring entity up to the above amount upon receipt of the procuring entity’s first written demand, without the procuring entity having to substantiate its demand, provided that in its demand the procuring entity shall state that the demand arises from the occurrence of any of the above events, specifying which event(s) has occurred.

The Surety hereby agrees that its obligation will remain in full force and effect up to and including the date 28 days after the date of expiration of the bid validity as stated in the Invitation to bid or extended by the Principal at any time prior to this date, notice of which extension(s) to the Surety being hereby waived.

IN TESTIMONY WHEREOF, the Principal and the Surety have caused these presents to be executed in their respective names this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_ 20\_\_.

Principal: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Surety: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
 Corporate Seal (where appropriate)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  
*(Signature) (Signature)  
(Printed name and title) (Printed name and title)*

**Bid-Securing Declaration**

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

Date: *[date (as day, month and year)]*

Ref No.: *[number of bidding process]*

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

To: *[complete name of procuring entity]*

We, the undersigned, declare that:

We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.

We accept that we will automatically be suspended from being eligible for bidding in any contract with the procuring entity for the period of time of *[number of months or years]* starting on *[date],* if we are in breach of our obligation(s) under the bid conditions, because we:

1. have materially modified or withdrawn our bid during the period of bid validity specified in the Letter of Bid; or
2. if a bidder does not accept a correction of errors in accordance with ITB Clause 30.4; or
3. having been notified of the acceptance of our bid by the procuring entity during the period of bid validity, fail or refuse to execute the contract; or (ii) fail or refuse to furnish the performance security, if required, in accordance with the ITB.

We understand this bid Securing Declaration shall expire if we are not the successful bidder, upon the earlier of (i) our receipt of your notification to us advising the execution of the contract with of the name of the successful bidder; or (ii) twenty-eight days after the expiration of our bid.

Signed: *[signature of person whose name and capacity are shown]* In the capacity of *[legal capacity of person signing the bid Securing Declaration]*

Name: *[complete name of person signing the bid Securing Declaration]*

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

Dated *[date of signing]*

Corporate Seal (where appropriate)

*[Note: In case of a Joint Venture, the bid Securing Declaration must be in the name of all partners to the Joint Venture that submits the bid.]*

Part II – Technical Requirements

# Section V. Technical Requirements

Contents

## *Notes on preparing the Requirements of the Goods*

*The Requirements of the goods comprise four significant and closely related subsections:*

* *Technical Requirements*
* *Implementation Schedule*
* *Inventory Tables*
* *Background and Informational Materials*

*Each subsection is presented and discussed separately*

Technical Requirements

*Notes on preparing the Technical Requirements*

*The Technical Requirements – in combination with the Implementation Schedule and the supporting Inventory Tables – state the supplier’s obligations to design, supply and install the goods and, as such, should be “voiced” to the supplier (i.e., “The goods MUST …” “The supplier MUST …”). They form the contractual basis for the procuring entity-supplier interactions on technical matters (in combination with refinements introduced through the supplier’s bid, the Project Plan, and any Change Orders).*

*The Technical Requirements also must include all the technical details (including consumables, installation, testing, after sales service etc.) that bidders will need to prepare realistic, responsive, and competitive bids (i.e., covering all their obligations under the contract if so awarded). However, matters addressed to the bidder’s (i.e., before contract award) generally belong in the Format of the Technical bid Section 8 of Part 1.*

*Often Technical Requirements are based on either consultant’s project bids (voiced to the procuring entity’s management) or bids from previous procurements (voiced to the procuring entity). In both instances, care needs to be taken in converting these materials into Technical Requirements (voiced to the supplier). Otherwise, substantial ambiguity will be introduced into the Technical Requirements from, among other things, “aspirational” text suggesting the benefits (to the procuring entity) which are often not obligations that the supplier can deliver on or be held to deliver upon. bid based language will often include “sales pitches”, such as “expandability up to sixteen processors”, whereas the Technical Requirements need to be stated as threshold values to be cleared by the supplier (e.g., “expandability to at least sixteen processors”).*

*Any sustainable procurement technical requirements shall be clearly specified. The sustainable procurement requirements may be specified to enable evaluation of such a requirement on a pass/fail basis and/or rated criteria (point system), as appropriate.*

*To the greatest extent possible, the Technical Requirements should be expressed in terms of the procuring entity’s business activities, rather than a technological design. This leaves it up to the market to determine what specific technologies can best satisfy these business needs.*

*Even in the case of a relatively straight-forward goods, where the business needs can be clearly linked to technological and methodological requirements known in advance of any bidding, the requirements must still be vendor-neutral and admit the widest possible range of technical responses.*

*Accordingly, references to brand names, catalog numbers, or other details that limit the source of any item or component to a specific manufacturer should be avoided. Where such references are unavoidable, the words “or substantially equivalent” should be added to permit bidders to bid equivalent or superior technologies. (The procuring entity will need to be ready to indicate how this equivalence will be assessed.) Only in the most exceptional circumstances may bidders be required to offer brand-name items and the equivalency clause be omitted:*

*(a) a brand-name component appears to have no equivalent or superior alternative, because: of its unique ability to reliably interoperate with a relatively large base of existing technologies; to conform with the procuring entity’s adopted technological standards; and to offer overwhelming savings in terms of avoided costs for retraining, data conversion, macro / business template redevelopment, etc.; and*

*(b) such brand-name components are the absolute fewest possible and each component has been explicitly identified in the Bid Data Sheet for ITB 16.3.*

*Similarly, where national standards or codes of practice are specified, the procuring entity should include a statement that other national or international standards “that are substantially equivalent” will also be acceptable.*

*To help ensure comparable bids and ease contract execution, the procuring entity’s requirements must be stated as clearly as possible, with minimum room for differing interpretations. Thus, wherever possible, technical requirements should include definitive characteristics and quantifiable measures. If technical characteristics in a specific range, or above or below specific thresholds, are required, then these should be clearly specified. For example, the expandability of a server should be stated as “no less than four processors.” Technical specifications that state only “four processors” create unnecessary uncertainty for bidders regarding whether or not, for example, a server that could be expanded up to six processor boards would be technically responsive.*

*Quantitative technical specifications must, however, be employed with care. They can dictate technical architectures and, thus, be unnecessarily restrictive. For example, a quantitative requirement for the minimum width of the data path in a processor may be unnecessarily restrictive. Instead, a specification of a required level of standard performance benchmark test is more appropriate, allowing different technical approaches to achieving the procuring entity’s functional and performance objectives. In general, the procuring entity should try to use widely accepted direct measures of performance and functionality whenever possible and carefully review specifications for those that might dictate technical architectures. The Technical Requirements must include any requirements for demonstration of the performance of the goods as part of the procurement process.*

*It is important that the Technical Requirements clearly identify which are mandatory features (for which a bid’s nonconformance might require rejection for non-responsiveness) and which are preferable features that can be included or excluded from a bid at the bidder’s option. To enhance the clarity of the specifications, the procuring entity is advised to use the word “MUST” (in bold capitals) in sentences describing mandatory requirements. A clear requirement numbering scheme is also essential.*

*The specification may be used to develop bid prices for technical support Recurrent Costs. These may be included in the main contract or be subject to separate contracts. In either regard, to obtain meaningful and comparable bid prices, the procuring entity will need to specify the roles of the technical support team members in this section and indicate the quantities of the corresponding inputs in the Inventory Tables for Recurrent Cost items.*

*The following presents a sample outline format for the Technical Requirements Section. This can and should be adapted to meet the procuring entity’s needs for the specific goods to be procured.*

**Implementation Schedule**

**Notes on preparing the Implementation Schedule**

*The Implementation Schedule summarize when and where Installation, and Operational Acceptance should take place for all major components of the goods – as well as any other major contract milestones.*

*Note: The delivery date is not presented in the Implementation Schedule. Under Incoterms (current edition specified in the BDS) for CIP, Delivery refers to the date when the supplier delivers the goods to the first carrier at the port of embarkation, not to the arrival of the goods at the destination site. Delivery (shipment) date therefore varies according to the country of origin of the goods and the supplier's chosen method of transport.*

*The target dates need to be realistic and achievable in light of the capacity of both the average supplier and the procuring entity to carry out their respective contract obligations. Also, the procuring entity must take care to ensure that the dates specified in the Schedule are consistent with any specified elsewhere in the bidding document, especially in the GCC/SCC (e.g., and/or times specified for the submission and acceptance of the Agreed Project Plan).*

*The work breakdown structure (deliverables) in the Implementation Schedule should be sufficiently detailed to facilitate careful management of the contract – but not so detailed that it unnecessarily constrains bidders from organizing the proposed work in the most efficient and effective manner.*

*To facilitate the bidding and the contract management processes, the Implementation Schedule, the Goods Inventory Tables and Schedule of Requirements should be closely linked. In particular, the Implementation Schedule defines the major deliverable components. For each component there should be a corresponding Inventory Table or Tables. These Inventory Tables catalog the specific items (inputs) comprising the goods, as well as the quantities of each item required (for the supply and install cost items as well as the recurrent cost items). For each Inventory Table there should be a corresponding Schedule of Requirements that closely mirrors the Inventory Table. Careful development of these materials will greatly improve the changes of obtaining complete and comparable bids (and ease the bid evaluation process) as well as improving the likelihood that the procuring entity’s and supplier’s interactions during contract execution are closely orchestrated (thus easing the burden of contract management and improving the likelihood of successful implementation of the goods).*

*The sample tables comprise:*

*(a) An Implementation Schedule Table;*

*(b) A Site Table(s); and*

*(c) A Table of Holidays and other Non-Working Days.*

*The procuring entity should modify these tables, as required, to suit the particulars of the goods to be supplied and installed. The sample text in the tables is illustrative only and should be modified or deleted as appropriate.*

*The timings stated in the Implementation Schedule should be specified in weeks from contract Effectiveness. This will ease the maintenance of the bidding documents during the preparation and bidding processes.*

*Where appropriate, the Implementation Schedule should indicate the deliverables against which Liquidated Damages may be applied in the event of implementation delays arising from the actions of the supplier (as governed by the SCC and GCC clause 30). These milestones should be kept to the essential minimum needed by the procuring entity to ensure contract discipline by the supplier – but not so many that they unnecessarily strain the procuring entity-supplier relationship upon which the successful implementation of the goods will invariably depend.*

*The Site Table(s) catalog the physical location of the site(s) where the goods are to be supplied, installed, and operated. The site(s) may consist of a number of branch offices in remote regions, different departments or offices in the same city, or a combination of these. The procuring entity must specify this information in sufficient detail so that bidders can accurately estimate costs related to:*

*(a) Delivery and insurance;*

*(b) Installation;*

*(c) Perform support services, such as warranty defect repair, maintenance, and other technical support services; and*

*(d) Other related Service obligations the successful bidder will have to perform under the contract, including related travel and subsistence costs.*

*This information will also help bidders identify which site(s) may warrant a site visit during the period they are preparing their bids. If the goods present complex installation challenges, site layout drawings should be included in the Background and Informational Materials Section.*

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[B. Site Table(s) 96](#_Toc454958755)

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**A. Implementation Schedule Table**

*[Specify* ***desired installation and acceptance dates for all items in Schedule below, modifying the sample line items and sample table entries as needed.****]*

| Line Item No. | Item | Configuration Table No. | Site / Site Code | Delivery (bidder to specify in the Preliminary Project Plan) | Installation (weeks from Effective Date) | Acceptance (weeks from Effective Date) | Liquidated Damages Milestone |
| --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |
| 0 | Project Plan | - - | - - |  | - - | W\_ | no |
|  |  |  |  |  |  |  |  |
| 1 | Goods | 1 | \_\_\_ |  | - - | - - | - - |
| : | etc. |  |  |  |  |  |  |
| x | Operational Acceptance of the goods as an integrated whole | - - | all sites |  | - - | W\_\_ | yes |
|  |  |  |  |  |  |  |  |
| y | Recurrent Cost Items – Warranty Period | y | - - |  |  |  |  |

**Note:** Refer to the Inventory Table(s) for the specific items and components that constitute the goods. Refer to the Site Table(s) below for details regarding the site and the site code.

- - indicates not applicable. “Indicates repetition of table entry above.

**B. Site Table(s)**

*[Specify:* ***the detailed information regarding the site(s) at which the goods are to be operated****]*

| Site Code | Site | City / Town / Region | Primary Street Address | Drawing Reference No. (if any) |
| --- | --- | --- | --- | --- |
| HQ | Headquarters |  |  |  |
|  |  |  |  |  |
| R1 | Region 1 |  |  |  |
| R1.1 | Region 1 Head Office |  |  |  |
| R1.2 | ABC Branch Office |  |  |  |
| R1.3 | DEF Branch Office |  |  |  |
|  |  |  |  |  |

**C. Table of Holidays and Other Non-Working Days**

*[Specify:* ***the days for each month for each year that are non-working days, due to Holidays or other business reasons (other than weekends).****]*

| Month | 20xy | 20xy+1 | 20xy+2 | .... |  |  | ... | 20zz |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| 1 |  |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |  |  |
| 5 |  |  |  |  |  |  |  |  |
| 6 |  |  |  |  |  |  |  |  |
| 7 |  |  |  |  |  |  |  |  |
| 8 |  |  |  |  |  |  |  |  |
| 9 |  |  |  |  |  |  |  |  |
| 10 |  |  |  |  |  |  |  |  |
| 11 |  |  |  |  |  |  |  |  |
| 12 |  |  |  |  |  |  |  |  |

**Inventory Tables**

***Notes on preparing the Inventory Tables***

*The Inventory Tables detail:*

*(a) for each major component (Deliverable) indicated in the Implementation Schedule, the Technologies, Materials, and other goods and services that comprise the goods to be supplied and/or performed by the supplier;*

*(b) the quantities of such Technologies, Materials, and other goods and services;*

*(c) the sites and the location of each on a specific site (e.g., building, floor, room, department, etc.)*

*(d) the cross references to the relevant section of the Technical Requirements where that item is described in greater detail*

*The procuring entity should modify these tables, as required, to suit the particulars of the goods to be supplied and installed. The sample text provided for various sections of the tables is illustrative only and should be modified or deleted as appropriate.*

*There are two sample formats given for the goods one for the Supply and Installation cost items and the second for recurrent cost items needed (if any). The second version of the table permits the procuring entity to obtain price information about items that are needed during the Warranty Period.*

**Table of Contents: Inventory Tables**

[Inventory Table (Supply and Installation Cost Items) [ insert: identifying number ] 100](#_Toc448759416)

[Inventory Table (Recurrent Cost Items) [ insert: identifying number ] – Warranty Period 101](#_Toc448759417)

**Inventory Table (Supply and Installation Cost Items) *[****insert****: identifying number]***

Line item number: [*specify:* ***relevant line item number from the Implementation Schedule (e.g., 1.1)]***

*[ as necessary for the supply and installation of the goods specify:* ***the detailed components and quantities in the Inventory Table below for the line item specified above, modifying the sample components and sample table entries as needed.*** *Repeat the Inventory Table as needed to cover each and every line item in the Implementation Schedule that requires elaboration.]*

| Component  No. | Component | Relevant Technical Specifications  No. | Additional Site Information (e.g., building, floor, department, etc.) | Quantity |
| --- | --- | --- | --- | --- |
|  |  |  |  |  |
| 1. | Item 1 |  | - - | - - |
| 1.1 | \_\_\_\_\_\_\_\_\_ |  |  | - - |
| : |  |  |  |  |
| 2. | Item 2 |  |  | - - |
| 2.1 | \_\_\_\_\_\_\_\_\_\_\_ |  |  | - - |
| : |  |  |  |  |
|  |  |  |  |  |

**Note:** - - indicates not applicable. “indicates repetition of table entry above.

**Inventory Table (Recurrent Cost Items) [***insert****: identifying number] –***

Line item number: [*specify:* ***relevant line item number from the Implementation Schedule (e.g., y.1)****]*

| Component  No. | Component | Relevant Technical Specifications No. | Y1 | Y2 | Y3 |
| --- | --- | --- | --- | --- | --- |
| 1. | Warranty Defect Repair |  | all items, all sites, included in the Supply and Install Price | all items, all sites, included in the Supply and Install Price | all items, all sites, included in the Supply and Install Price |
| 2. | Licenses and Updates: |  | all items, all sites, included in the Supply and Install Price | all items, all sites, included in the Supply and Install Price | all items, all sites, included in the Supply and Install Price |
| 3. | Technical services |  |  |  |  |
|  | … |  |  |  |  |

**Note:** - - indicates not applicable. “indicates repetition of table entry above.

**Background and Informational Materials**

***Notes on Background and Informational Materials***

*This section of the bidding document provides a place to gather materials that the procuring entity believes will help bidders prepare more precisely targeted technical bids and more precise bid prices.*

*These materials MUST NOT introduce requirements for the goods. Rather they should assist bidders to interpret the Technical Requirements and the General and Specific Conditions of contract. For example, these Background and Informational Materials may describe existing information systems that the goods to be supplied and installed under the contract must integrate with. However, the specific requirement that the supplier must integrate the goods with other systems needs to be stated in the Technical Requirements. Similarly, these Background and Informational Materials may describe the legal and regulatory norms (including for example statutory report formats) that are relevant to the goods. The Technical Requirements Section would need to spell out that the supplier must ensure the goods complies with the relevant legal and regulatory norms.*

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[0.2 The procuring entity’s Business Objectives for the goods 104](#_Toc252363468)

[B. Informational Materials 104](#_Toc252363469)

[0.3 The Legal, Regulatory, and Normative Context for the goods 104](#_Toc252363470)

[0.4 Existing goods Relevant to the goods 104](#_Toc252363471)

[0.5 Available Training Facilities to Support the Implementation of the goods 104](#_Toc252363472)

[0.6 Site Drawings and Site Survey Information Relevant to the goods 104](#_Toc252363473)

**Background and Informational Materials**

*Note: The following is only a sample outline. Entries should be modified, extended, and/or deleted, as appropriate for the particular goods to be supplied and installed. DO NOT introduce requirements for the goods in this section.*

**A. Background**

**0.1 The procuring entity**

0.1.1 *[ provide: an overview of the Agency’s legal basis, organizational role, and core objectives]*

0.1.2 *[ provide: an overview of the stakeholders to the goods]*

0.1.3 *[ provide: an overview of the procuring entity’s project management and decision-making arrangements applicable to the goods and performance of the contract]*

**0.2 The procuring entity’s Business Objectives for the Goods**0.2.1 *[ provide: an overview of the current business objectives, procedures, and processes and how they will be affected by the goods]*

0.2.2 *[ provide: an overview of the changes in objectives, procedures, and processes to be made possible by the goods]*

0.2.3 *[ provide: a brief description of the expected benefits of the goods]*

**B. Informational Materials**

**0.3 The Legal, Regulatory, and Normative Context for the Goods**

0.3.1 *[ provide: an overview of the laws, regulations and other formal norm which will shape the goods.]*

0.3.2 *[ provide: samples of existing standardized reports, data entry forms, data formats, data coding schemes, etc. which the goods will need to implement.]*

**0.4 Existing Goods Relevant to the Goods**

0.4.1 *[ provide: an overview of the existing information systems and information technologies which will establish the technological context for the implementation of the goods.]*

0.4.2 *[ provide: an overview of the ongoing or planned information systems initiatives that will shape context for the implementation of the goods.]*

**0.5 Available Training Facilities to Support the Implementation of the Goods**

0.5.1 *[ provide: an overview of the procuring entity’s existing training facilities that would be available to support the implementation of the goods.]*

**0.6 Site Drawings and Site Survey Information Relevant to the Goods**

0.6.1 *[ provide: information of the sites at which the goods would be implemented.]*

Part III – Conditions of Contract and Contract Forms

# Section VI. General Conditions of Contract

|  |
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| 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 elements(i) “Contract” means the Contract Agreement entered into between the procuring entity and the Supplier, together with the Contract documents referred to therein. The Contract Agreement and the Contract documents shall constitute the Contract, and the term “the Contract” shall in all such documents be construed accordingly.(ii) “Contract documents” means the documents specified in Article 1.1 (Contract documents) of the Contract Agreement (including any amendments to these documents).(iii) “Contract Agreement” means the agreement entered into between the procuring entity and the Supplier using the form of Contract Agreement contained in the ITB and any modifications to this form agreed to by the procuring entity and the Supplier. The date of the Contract Agreement shall be recorded in the signed form.(iv) “GCC” means the General Conditions of Contract.(v) “SCC” means the Special Conditions of Contract.(vi) “Technical Requirements” means the Technical Requirements in ITB documents.(vii) “Implementation Schedule” means the Implementation Schedule in the ITB documents.viii) “Contract Price” means the price or prices defined in Article 2 (Contract Price and Terms of Payment) of the Contract Agreement.b) entities(i) “procuring entity” means the entity purchasing the goods, as specified in the SCC.(ii) “Project Manager” means the person named as such in the SCC or otherwise appointed by the procuring entity in the manner provided in GCC Clause 20.1 (Project Manager) to perform the duties delegated by the procuring entity.(iii) “Supplier” means the firm or Joint Venture whose bid to perform the Contract has been accepted by the procuring entity and is named as such in the Contract Agreement.(iv) “Supplier’s Representative” means any person nominated by the Supplier and named as such in the Contract Agreement or otherwise approved by the procuring entity in the manner provided in GCC Clause 20.2 (Supplier’s Representative) to perform the duties delegated by the Supplier.(v) “Subcontractor” means any firm to whom any of the obligations of the Supplier, including preparation of any design or supply of any goods or services, is subcontracted directly or indirectly by the Supplier.(vi) “Adjudicator” means the person named in Appendix 2 of the Contract Agreement, appointed by agreement between the procuring entity and the Supplier to make a decision on or to settle any dispute between the procuring entity and the Supplier referred to him or her by the parties, pursuant to GCC Clause 45.1 (Adjudication).(c) scope(i) “goods” means all equipment, machinery, furnishings, Materials, and other tangible items that the Supplier is required to supply or supply and install under the Contract, including, without limitation, but excluding the Supplier’s Equipment.(ii) “services” means all technical, logistical, management, and any other services to be provided by the Supplier under the Contract to supply, install, customize, integrate, and make operational the goods. Such services may include, but are not restricted to, activity management and quality assurance, design, development, customization, documentation, transportation, insurance, inspection, expediting, site preparation, installation, integration, training, data migration, Pre-commissioning, Commissioning, maintenance, and technical support.(iii) “The Project Plan” means the document to be developed by the Supplier and approved by the procuring entity, pursuant to GCC Clause 21, based on the requirements of the Contract and the Preliminary Project Plan included in the Supplier’s Proposal. The “Agreed Project Plan” is the version of the Project Plan approved by the procuring entity, in accordance with GCC Clause 21.2. Should the Project Plan conflict with the Contract in any way, the relevant provisions of the Contract, including any amendments, shall prevail.(iv) “Materials” means all documentation in printed or printable form and all instructional and informational aides in any form (including audio, video, and text) and on any medium, provided to the procuring entity under the Contract.(v) “Standard Materials” means all Materials not specified as Custom Materials.(vi) “Custom Materials” means Materials developed by the Supplier at the procuring entity’s expense under the Contract and identified as such in Appendix 5 of the Contract Agreement and such other Materials as the parties may agree in writing to be Custom Materials. Custom Materials includes Materials created from Standard Materials.(vii) “Intellectual Property Rights” means any and all copyright, moral rights, trademark, patent, and other intellectual and proprietary rights, title and interests worldwide, whether vested, contingent, or future, including without limitation all economic rights and all exclusive rights to reproduce, fix, adapt, modify, translate, create derivative works from, extract or re-utilize data from, manufacture, introduce into circulation, publish, distribute, sell, license, sublicense, transfer, rent, lease, transmit or provide access electronically, broadcast, display, enter into computer memory, or otherwise use any portion or copy, in whole or in part, in any form, directly or indirectly, or to authorize or assign others to do so.(viii) “Supplier’s Equipment” means all equipment, tools, apparatus, or things of every kind required in or for installation, completion and maintenance of the goods that are to be provided by the Supplier, but excluding the goods, or other items forming part of the goods.(d) activities(i) “Delivery” means the transfer of the goods from the Supplier to the procuring entity in accordance with the current edition Incoterms specified in the Contract.(ii) “Installation” means that the goods as specified in the Contract is ready for Commissioning as provided in GCC Clause 28 (Installation).(iii) “Pre-commissioning” means the testing, checking, and any other required activity that may be specified in the Technical Requirements that are to be carried out by the Supplier in preparation for Commissioning of the goods as provided in GCC Clause 28 (Installation).(iv) “Commissioning” means operation of the goods by the Supplier following Installation, which operation is to be carried out by the Supplier as provided in GCC Clause 29.1 (Commissioning), for the purpose of carrying out Operational Acceptance Test(s).(v) “Operational Acceptance Tests” means the tests specified in the Technical Requirements and Agreed Project Plan to be carried out to ascertain whether the goods, or a specified major component, is able to attain the functional and performance requirements specified in the Technical Requirements and Agreed Project Plan, in accordance with the provisions of GCC Clause 29.2 (Operational Acceptance Test).(vi) “Operational Acceptance” means the acceptance by the procuring entity of the goods (or any major component where the Contract provides for acceptance of the goods in parts), in accordance with GCC Clause 29.3 (Operational Acceptance).(e) place and time(i) “procuring entity’s Country” is the country named in the SCC.(ii) “Supplier’s Country” is the country in which the Supplier is legally organized, as named in the Contract Agreement.(iii) Unless otherwise specified in the SCC “Project Site(s)” means the place(s) in the Site Table in the Technical Requirements Section for the supply and installation of the goods.(iv) “Eligible Country” means the countries and territories eligible for participation in procurements.(v) “Day” means calendar day of the Gregorian Calendar.(vi) “Week” means seven (7) consecutive Days, beginning the day of the week as is customary in the procuring entity’s Country.(vii) “Month” means calendar month of the Gregorian Calendar.(viii) “Year” means twelve (12) consecutive Months.(ix) “Effective Date” means the date of fulfillment of all conditions specified in Article 3 (Effective Date for Determining Time for Achieving Operational Acceptance) of the Contract Agreement, for the purpose of determining the Delivery, Installation, and Operational Acceptance dates for the goods or major component(s).(x) “Contract Period” is the time period during which this Contract governs the relations and obligations of the procuring entity and Supplier in relation to the goods, as unless otherwise specified in the SCC, the Contract shall continue in force until the goods and all the services have been provided, unless the Contract is terminated earlier in accordance with the terms set out in the Contract.(xi) “Defect Liability Period” (also referred to as the “Warranty Period”) means the period of validity of the warranties given by the Supplier commencing at date of the Operational Acceptance Certificate of the goods or major component(s), during which the Supplier is responsible for defects with respect to the goods (or the relevant major component) as provided in GCC Clause 31 (Defect Liability).(xii) “The Coverage Period” means the Days of the Week and the hours of those Days during which maintenance, operational, and/or technical support services (if any) must be available. (xiii) “The Post-Warranty services Period” means the number of years defined in the SCC (if any), following the expiration of the Warranty Period during which the Supplier may be obligated to provide Software licenses, maintenance, and/or technical support services for the goods, either under this Contract or under separate contract(s). |
| 2. Contract Documents   * 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 The Government of Jamaica requires that all parties involved in the procurement proceedings and execution of such contracts observe the highest standard of ethics.  3.2 For the purposes of this provision, offences of fraud and corruption are defined in Part VII of the Act and any other Act relating to corrupt activities in Jamaica.  3.3 A person who commits an offence under the Act or any other Act relating to corrupt activities in Jamaica shall  (a) be liable for conviction under the provisions of the Act or any other Act relating to corrupt activities in Jamaica;  (b) have their bid rejected if it is determined that the bid or bidder is not in compliance with the provisions of the Act, the regulations or any other Act relating to corrupt activities in Jamaica  (c) risk other sanctions provided for in the Act or the regulations.  3.4 Furthermore, bidders take account of the provision stated in Sub-Clause 43.2.1(c) of the General Conditions of Contract. |
| 4. Interpretation   * 1. If the context so requires it, singular means plural and vice versa.   2. Incoterms  Unless inconsistent with any provision of the Contract, the meaning of any trade term and the rights and obligations of parties thereunder shall be as prescribed by Incoterms.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.  * 1. Entire Agreement   The Contract constitutes the entire agreement between the procuring entity and the supplier and supersedes all communications, negotiations and agreements (whether written or oral) of the parties with respect thereto made prior to the date of Contract.   * 1. Persons   Words importing persons or parties shall include firms, corporations, and government entities.   * 1. 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.   * 1. Independent supplier   The supplier shall be an independent supplier performing the contract. The contract does not create any agency, partnership, joint venture, or other joint relationship between the parties to the contract.  Subject to the provisions of the contract, the supplier shall be solely responsible for the manner in which the contract is performed. All employees, representatives, or Subcontractors engaged by the supplier in connection with the performance of the contract shall be under the complete control of the supplier and shall not be deemed to be employees of the procuring entity, and nothing contained in the contract or in any subcontract awarded by the supplier shall be construed to create any contractual relationship between any such employees, representatives, or Subcontractors and the procuring entity.   * 1. Nonwaiver  Subject to GCC Sub-Clause 4.7(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.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.  * 1. 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   * 1. The Contract as well as all correspondence and documents relating to the Contract exchanged by the supplier and the procuring entity, shall be written in the English language**.** 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.   2. The supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation, for documents provided by the supplier. |
| 6. Joint Venture, Consortium or Association   * 1. If the supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the procuring entity 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 procuring entity. |
| 7. Eligibility   * 1. 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.   2. 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   * 1. Any notice given by one party to the other pursuant to the Contract shall be in writing and sent to the address specified in the **SCC.**   2. A notice shall be effective when delivered or on the notice’s effective date, whichever is later. |
| 9. Governing Law   * 1. The Contract shall be governed by and interpreted in accordance with the laws of Jamaica**.** |
| 10. Scope of Supply   * 1. Unless otherwise expressly limited in the SCC or Technical Requirements, the supplier’s obligations cover the provision of all Technologies, Materials and other goods as well as the performance of all services required for the design, development, and implementation (including procurement, quality assurance, assembly, associated site preparation, Delivery, Pre-commissioning, Installation, Testing, and Commissioning) of the goods, in accordance with the plans, procedures, specifications, drawings, codes, and any other documents specified in the contract and the Agreed Project Plan.   2. The supplier shall, unless specifically excluded in the contract, perform all such work and / or supply all such items and Materials not specifically mentioned in the contract but that can be reasonably inferred from the contract as being required for attaining Operational Acceptance of the goods as if such work and / or items and Materials were expressly mentioned in the contract.   3. The supplier’s obligations (if any) to provide goods and services as implied by the Recurrent Cost tables of the supplier’s bid, such as consumables, spare parts, and technical services (e.g., maintenance, technical assistance, and operational support), are as **specified in the SCC,** including the relevant terms, characteristics, and timings. |
| 11. Time for Commencement and Operational Acceptance   * 1. The supplier shall commence work on the performance of the contract within the period specified in the SCC, and without prejudice to GCC Clause 30.2, the supplier shall thereafter proceed with the supply and installation of the goods in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan.   2. The supplier shall achieve Operational Acceptance of the goods in accordance with the time schedule specified in the Implementation Schedule and any refinements made in the Agreed Project Plan, or within such extended time to which the supplier shall be entitled under GCC Clause 42 (Extension of Time for Achieving Operational Acceptance). |
| 12. Supplier’s Responsibilities   * 1. The supplier shall conduct all activities with due care and diligence, in accordance with the contract and with the skill and care expected of a competent provider of the goods and other related services, or in accordance with best industry practices. In particular, the supplier shall provide and employ only technical personnel who are skilled and experienced in their respective callings and supervisory staff who are competent to adequately supervise the work at hand.   2. The supplier confirms that it has entered into this contract on the basis of a proper examination of the data relating to the goods provided by the procuring entity and on the basis of information that the supplier could have obtained from a visual inspection of the site (if access to the site was available) and of other data readily available to the supplier relating to the goods as at the date twenty-eight (28) days prior to bid submission. The supplier acknowledges that any failure to acquaint itself with all such data and information shall not relieve its responsibility for properly estimating the difficulty or cost of successfully performing the contract.   3. The supplier shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach a mutually Agreed Project Plan (pursuant to GCC Clause 21.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision-making may constitute grounds for termination pursuant to GCC Clause 43.2.   4. The supplier shall acquire in its name all permits, approvals, and/or licenses from all local, state, or national government authorities or public service undertakings in Jamaica that are necessary for the performance of the contract, including, without limitation, visas for the supplier’s and Subcontractor’s personnel and entry permits for all imported supplier’s Equipment. The supplier shall acquire all other permits, approvals, and/or licenses that are not the responsibility of the procuring entity under GCC Clause 13.4 and that are necessary for the performance of the contract.   5. The supplier shall comply with all laws in force in Jamaica. The laws will include all national, provincial, municipal, or other laws that affect the performance of the contract and are binding upon the supplier. The supplier shall indemnify and hold harmless the procuring entity from and against any and all liabilities, damages, claims, fines, penalties, and expenses of whatever nature arising or resulting from the violation of such laws by the supplier or its personnel, including the Subcontractors and their personnel, but without prejudice to GCC Clause 13.1. The supplier shall not indemnify the procuring entity to the extent that such liability, damage, claims, fines, penalties, and expenses were caused or contributed to by a fault of the procuring entity.   6. The supplier shall, in all dealings with its labor and the labor of its Subcontractors currently employed on or connected with the contract, pay due regard to all recognized festivals, official holidays, religious or other customs, and all local laws and regulations pertaining to the employment of labor.   7. Any goods and services that will be incorporated in or be required and other supplies shall have their Origin, as defined in GCC Clause 7, in a country that shall be an Eligible Country.   8. The supplier shall permit and shall cause its subcontractors and subconsultants to permit, the procuring entity and/or persons appointed by the procuring entity to inspect the Site and/or the accounts and records relating to the performance of the contract and the submission of the bid, and to have such accounts and records audited by auditors appointed by the procuring entity if requested by the procuring entity. The supplier’s and its Subcontractors’ and subconsultants’ attention is drawn to Sub-Clause 43 which provides, inter alia, that acts intended to materially impede the exercise of the procuring entity’s inspection and audit rights constitute a prohibited practice subject to contract termination (as well as to a determination of ineligibility pursuant to the procuring entity’s prevailing sanctions procedures).   9. The supplier shall conform to the sustainable procurement contractual provisions, if and as specified in the SCC. |
| 13. Procuring entity’s Responsibilities   * 1. The procuring entity shall ensure the accuracy of all information and/or data to be supplied by the procuring entity to the supplier, except when otherwise expressly stated in the contract.   2. The procuring entity shall be responsible for timely provision of all resources, information, and decision making under its control that are necessary to reach an Agreed Project Plan (pursuant to GCC Clause 21.2) within the time schedule specified in the Implementation Schedule. Failure to provide such resources, information, and decision making may constitute grounds for Termination pursuant to GCC Clause 43.3.1 (b).   3. The procuring entity shall be responsible for acquiring and providing legal and physical possession of the site and access to it, and for providing possession of and access to all other areas reasonably required for the proper execution of the contract.   4. If requested by the supplier, the procuring entity shall use its best endeavors to assist the supplier in obtaining in a timely and expeditious manner all permits, approvals, and/or licenses necessary for the execution of the contract from all local, state, or national government authorities or public service undertakings that such authorities or undertakings require the supplier or Subcontractors or the personnel of the supplier or Subcontractors, as the case may be, to obtain.   5. In such cases where the responsibilities of specifying and acquiring or upgrading telecommunications and/or electric power services falls to the supplier, as specified in the Technical Requirements, SCC, Agreed Project Plan, or other parts of the contract, the procuring entity shall use its best endeavors to assist the supplier in obtaining such services in a timely and expeditious manner.   6. The procuring entity shall be responsible for timely provision of all resources, access, and information necessary for the Installation and Operational Acceptance of the goods (including, but not limited to, any required telecommunications, electric power services etc.), as identified in the Agreed Project Plan, except where provision of such items is explicitly identified in the contract as being the responsibility of the supplier. Delay by the procuring entity may result in an appropriate extension of the Time for Operational Acceptance, at the supplier’s discretion.   7. Unless otherwise specified in the contract or agreed upon by the procuring entity and the supplier, the procuring entity shall provide sufficient, properly qualified operating and technical personnel, as required by the supplier to properly carry out Delivery, Pre-commissioning, Installation, Commissioning, and Operational Acceptance, at or before the time specified in the Implementation Schedule and the Agreed Project Plan.   8. The procuring entity will designate appropriate staff for the training courses to be given by the supplier and shall make all appropriate logistical arrangements for such training as specified in the Technical Requirements, SCC, the Agreed Project Plan, or other parts of the contract.   9. The procuring entity assumes primary responsibility for the Operational Acceptance Test(s) for the goods, in accordance with GCC Clause 29.2, and shall be responsible for the continued operation of the Goods after Operational Acceptance. However, this shall not limit in any way the supplier’s responsibilities after the date of Operational Acceptance otherwise specified in the contract.   10. All costs and expenses involved in the performance of the obligations under this GCC Clause 13 shall be the responsibility of the procuring entity, save those to be incurred by the supplier with respect to the performance of the Operational Acceptance Test(s), in accordance with GCC Clause 29.2.   11. Unless otherwise specified in the SCC the procuring entity shall have no other procuring entity responsibilities. |
| 14. Contract Price   * 1. The contract Price shall be as specified in Article 2 (contract Price and Terms of Payment) of the Contract Agreement.   2. The contract Price shall be a firm lump sum not subject to any alteration, except:   (a) in the event of a Change in the goods pursuant to GCC Clause 41 or to other clauses in the contract;  (b) the price adjustment formula specified in the SCC (if any). **However, unless otherwise specified in the SCC** there will NOT be a price adjustment formula**.**   * 1. The supplier shall be deemed to have satisfied itself as to the correctness and sufficiency of the contract Price, which shall, except as otherwise provided for in the contract, cover all its obligations under the contract. 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. |
| 15. Terms of Payment   * 1. The supplier’s request for payment shall be made to the procuring entity in writing, accompanied by an invoice describing, as appropriate, the goods, Delivered, Pre-commissioned, Installed, and Operationally Accepted, and by documents submitted pursuant to GCC Clause 24.5 and upon fulfillment of other obligations stipulated in the contract.   The contract Price shall be paid as **specified in the SCC.**   * 1. No payment made by the procuring entity herein shall be deemed to constitute acceptance by the procuring entity of the goods.   2. Payments shall be made promptly by the procuring entity, but in no case later than forty-five (45) days after submission of a valid invoice by the supplier. In the event that the procuring entity fails to make any payment by its respective due date or within the period set forth in the contract, the procuring entity shall pay to the supplier interest on the amount of such delayed payment at the rate(s) specified in the SCC for the period of delay until payment has been made in full, whether before or after judgment or arbitration award.   3. Payments shall be made in the currency(ies) specified in the Contract Agreement, pursuant to GCC Clause 14. For goods and services supplied locally, payments shall be made as specified in the SCC.   4. Unless otherwise specified in the SCC, payment of the foreign currency portion of the contract Price for goods supplied from outside Jamaica shall be made to the supplier through an irrevocable letter of credit opened by an authorized bank in the supplier’s country and will be payable on presentation of the appropriate documents. It is agreed that the letter of credit will be subject to Article 13 of the latest revision of Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce, Paris. |
| 16. Securities   * 1. Issuance of Securities   The supplier shall provide the securities specified below in favor of the procuring entity at the times and in the amount, manner, and form specified below.   * 1. Advance Payment Security   16.2.1 The supplier shall provide within twenty-eight (28) days of the notification of contract award an Advance Payment Security in the amount and currency of the Advance Payment specified in SCC for GCC Clause 15.1 above and valid until the Goods is Operationally Accepted.  16.2.2 The security shall be in the form provided in the bidding documents or in another form acceptable to the procuring entity. The amount of the security shall be reduced in proportion to the value of the Goods executed by and paid to the supplier from time to time and shall automatically become null and void when the full amount of the advance payment has been recovered by the procuring entity. **Unless otherwise specified in the SCC,** the reduction in value and expiration of the Advance Payment Security are calculated as follows:  P\*a/(100-a), where “P” is the sum of all payments effected so far to the supplier (excluding the Advance Payment), and “a” is the Advance Payment expressed as a percentage of the contract Price pursuant to the SCC for GCC Clause 15.1.  The security shall be returned to the supplier immediately after its expiration.   * 1. Performance Security   16.3.1 The supplier shall, within twenty-eight (28) days of the notification of contract award, provide a security for the due performance of the contract in the amount and currency **specified in the SCC.**  16.3.2 The security shall be a bank guarantee in the form provided in the Sample contractual Forms Section of the bidding documents.  16.3.3 The security shall automatically become null and void once all the obligations of the supplier under the contract have been fulfilled, including, but not limited to, any obligations during the Warranty Period and any extensions to the period. The security shall be returned to the supplier no later than twenty-eight (28) days after its expiration.  16.3.4 Upon Operational Acceptance of the goods, the security shall be reduced to the amount **specified in the SCC,** on the date of such Operational Acceptance, so that the reduced security would only cover the remaining warranty obligations of the supplier. |
| 17. Taxes and Duties   * 1. For goods or services supplied from outside Jamaica, the supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Jamaica. Any duties, such as importation or customs duties, and taxes and other levies, payable in Jamaica for the supply of goods and services from outside Jamaica are the responsibility of the procuring entity unless these duties or taxes have been made part of the contract Price in Article 2 of the Contract Agreement and the Schedule of Requirements it refers to, in which case the duties and taxes will be the supplier’s responsibility.   2. For goods or services supplied locally, the supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods or services to the procuring entity. The only exception are taxes or duties, such as value-added or sales tax or stamp duty as apply to, or are clearly identifiable, on the invoices and provided they apply in Jamaica, and only if these taxes, levies and/or duties are also excluded from the contract Price in Article 2 of the Contract Agreement and the Schedule of Requirements it refers to.   3. If any tax exemptions, reductions, allowances, or privileges may be available to the supplier in Jamaica, the procuring entity shall use its best efforts to enable the supplier to benefit from any such tax savings to the maximum allowable extent.   4. For the purpose of the contract, it is agreed that the contract Price specified in Article 2 (contract Price and Terms of Payment) of the Contract Agreement is based on the taxes, duties, levies, and charges prevailing at the date twenty-eight (28) days prior to the date of bid submission in Jamaica (also called “Tax” in this GCC Clause 17.4). If any Tax rates are increased or decreased, a new Tax is introduced, an existing Tax is abolished, or any change in interpretation or application of any Tax occurs in the course of the performance of the contract, which was or will be assessed on the supplier, its Subcontractors, or their employees in connection with performance of the contract, an equitable adjustment to the contract Price shall be made to fully take into account any such change by addition to or reduction from the contract Price, as the case may be For goods manufactured outside Jamaica, the supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Jamaica.   5. For goods Manufactured within Jamaica, the supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the procuring entity.   6. If any tax exemptions, reductions, allowances or privileges may be available to the supplier in Jamaica, the procuring entity shall use its best efforts to enable the supplier to benefit from any such tax savings to the maximum allowable extent. |
| 18. Copyright   * 1. The Intellectual Property Rights in all aspects of the goods shall remain vested in the owner of such rights.   2. The procuring entity agrees to restrict use, copying, or duplication of the goods, except that additional copies of Standard Materials may be made by the procuring entity for use within the scope of the project of which the goods are a part, in the event that the supplier does not deliver copies within thirty (30) days from receipt of a request for such Standard Materials.   3. The procuring entity’s contractual rights to use the goods may not be assigned, licensed, or otherwise transferred voluntarily except in accordance with the relevant license agreement or unless otherwise specified in the SCC to a legally constituted successor organization (e.g., a reorganization of a public entity formally authorized by the government or through a merger or acquisition of a private entity).   4. Unless otherwise specified in the SCC, the Intellectual Property Rights in all custom goods specified in Appendices 4 and 5 of the Contract Agreement (if any) shall, at the date of this contract or on creation of the rights (if later than the date of this contract), vest in the procuring entity. The supplier shall do and execute or arrange for the doing and executing of each necessary act, document, and thing that the procuring entity may consider necessary or desirable to perfect the right, title, and interest of the procuring entity in and to those rights. In respect of such custom goods, the supplier shall ensure that the holder of a moral right in such an item does not assert it, and the supplier shall, if requested to do so by the procuring entity and where permitted by applicable law, ensure that the holder of such a moral right waives it.   5. **Unless otherwise specified in the SCC**, escrow arrangements shall NOT be required. |
| 19 Confidential Information   * 1. Unless otherwise specified in the SCC, the "Receiving Party" (either the procuring entity or the supplier) shall keep confidential and shall not, without the written consent of the other party to this contract (“the Disclosing Party”), divulge to any third party any documents, data, or other information of a confidential nature (“Confidential Information”) connected with this contract, and furnished directly or indirectly by the Disclosing Party prior to or during performance, or following termination, of this contract.   2. For the purposes of GCC Clause 19.1, the supplier is also deemed to be the Receiving Party of Confidential Information generated by the supplier itself in the course of the performance of its obligations under the contract and relating to the businesses, finances, suppliers, employees, or other contacts of the procuring entity or the procuring entity’s use of the Goods.   3. Notwithstanding GCC Clauses 19.1 and 19.2:   (a) the supplier may furnish to its Subcontractor Confidential Information of the procuring entity to the extent reasonably required for the Subcontractor to perform its work under the contract; and  (b) the procuring entity may furnish Confidential Information of the supplier: (i) to its support service suppliers and their subcontractors to the extent reasonably required for them to perform their work under their support service contracts; and (ii) to its affiliates and subsidiaries,  in which event the Receiving Party shall ensure that the person to whom it furnishes Confidential Information of the Disclosing Party is aware of and abides by the Receiving Party’s obligations under this GCC Clause 19 as if that person were party to the contract in place of the Receiving Party.   * 1. The procuring entity shall not disclose information relating to the examination and evaluation of bids other than the summary of the evaluation of bids if      1. non-disclosure of such information is necessary for the protection of the national interests of Jamaica; or      2. disclosure of such information would be contrary to law; impede law enforcement; prejudice the legitimate commercial interests of a supplier, bidder or supplier; or impede fair competition;   unless disclosure of that information is ordered by the Review Board or any court, and, in such case, subject to such conditions as may be specified in the order   * 1. The procuring entity shall not, without the supplier’s prior written consent, use any Confidential Information received from the supplier for any purpose other than the operation, maintenance and further development of the Goods. Similarly, the supplier shall not, without the procuring entity’s prior written consent, use any Confidential Information received from the procuring entity for any purpose other than those that are required for the performance of the contract.   2. The obligation of a party under GCC Clauses 19.1 through 19.5 above, however, shall not apply to that information which:   (a) now or hereafter enters the public domain through no fault of the Receiving Party;  (b) can be proven to have been possessed by the Receiving Party at the time of disclosure and that was not previously obtained, directly or indirectly, from the Disclosing Party;  (c) otherwise lawfully becomes available to the Receiving Party from a third party that has no obligation of confidentiality.   * 1. The above provisions of this GCC Clause 19 shall not in any way modify any undertaking of confidentiality given by either of the parties to this contract prior to the date of the contract in respect of the Goods or any part thereof.   2. Unless otherwise specified in the SCC, the provisions of this GCC Clause 19 shall survive the termination, for whatever reason, of the contract for three (3) years. |
| |  | | --- | | 20. Representatives  20.1 Project Manager  If the Project Manager is not named in the contract, then within fourteen (14) days of the Effective Date, the procuring entity shall appoint and notify the supplier in writing of the name of the Project Manager. The procuring entity may from time to time appoint some other person as the Project Manager in place of the person previously so appointed and shall give a notice of the name of such other person to the supplier without delay. No such appointment shall be made at such a time or in such a manner as to impede the progress of work on the goods. Such appointment shall take effect only upon receipt of such notice by the supplier. **Unless otherwise specified in the SCC** (if any), the Project Manager shall have the authority to represent the procuring entity on all day-to-day matters relating to the goods or arising from the contract, and shall normally be the person giving or receiving notices on behalf of the procuring entity pursuant to GCC Clause 8.  20.2 Supplier’s Representative  20.2.1 If the supplier’s Representative is not named in the contract, then within fourteen (14) days of the Effective Date, the supplier shall appoint the supplier’s Representative and shall request the procuring entity in writing to approve the person so appointed. The request must be accompanied by a detailed curriculum vitae for the nominee, as well as a description of the goods the nominee would retain while performing the duties of the supplier’s Representative. If the procuring entity does not object to the appointment within fourteen (14) days, the supplier’s Representative shall be deemed to have been approved. If the procuring entity objects to the appointment within fourteen (14) days giving the reason therefor, then the supplier shall appoint a replacement within fourteen (14) days of such objection in accordance with this GCC Clause 20.2.1.  20.2.2 **Unless otherwise specified in the SCC** (if any), the supplier’s Representative shall have the authority to represent the supplier on all day-to-day matters relating to the goods or arising from the contract, and shall normally be the person giving or receiving notices on behalf of the supplier pursuant to GCC Clause 8.  20.2.3 The supplier shall not revoke the appointment of the supplier’s Representative without the procuring entity’s prior written consent, which shall not be unreasonably withheld. If the procuring entity consents to such an action, the supplier shall appoint another person of equal or superior qualifications as the supplier’s Representative, pursuant to the procedure set out in GCC Clause 20.2.1.  20.2.4 The supplier’s Representative and staff are obliged to work closely with the procuring entity’s Project Manager and staff, act within their own authority, and abide by directives issued by the procuring entity that are consistent with the terms of the contract. The supplier’s Representative is responsible for managing the activities of its personnel and any subcontracted personnel.  20.2.5 The supplier’s Representative may, subject to the approval of the procuring entity (which shall not be unreasonably withheld), at any time delegate to any person any of the powers, functions, and authorities vested in him or her. Any such delegation may be revoked at any time. Any such delegation or revocation shall be subject to a prior notice signed by the supplier’s Representative and shall specify the powers, functions, and authorities thereby delegated or revoked. No such delegation or revocation shall take effect unless and until the notice of it has been delivered.  20.2.6 Any act or exercise by any person of powers, functions and authorities so delegated to him or her in accordance with GCC Clause 20.2.5 shall be deemed to be an act or exercise by the supplier’s Representative.  20.3 Objections and Removals  20.3.1 The procuring entity may by notice to the supplier object to any representative or person employed by the supplier in the execution of the contract who, in the reasonable opinion of the procuring entity, may have behaved inappropriately, be incompetent, or be negligent. The procuring entity shall provide evidence of the same, whereupon the supplier shall remove such person from work on the goods.  20.3.2 If any representative or person employed by the supplier is removed in accordance with GCC Clause 20.3.1, the supplier shall, where required, promptly appoint a replacement. | | 21 Project Plan   * 1. In close cooperation with the procuring entity and based on the Preliminary Project Plan included in the supplier’s bid, the supplier shall develop a Project Plan encompassing the activities specified in the contract. The contents of the Project Plan shall be as specified in the SCC and/or Technical Requirements.   2. Unless otherwise specified in the SCC, within thirty (30) days from the Effective Date of the contract, the supplier shall present a Project Plan to the procuring entity. The procuring entity shall, within fourteen (14) days of receipt of the Project Plan, notify the supplier of any respects in which it considers that the Project Plan does not adequately ensure that the proposed program of work, proposed methods will satisfy the Technical Requirements and/or the SCC (in this Clause 21.2 called “non-conformities” below). The supplier shall, within five (5) days of receipt of such notification, correct the Project Plan and resubmit to the procuring entity. The procuring entity shall, within five (5) days of resubmission of the Project Plan, notify the supplier of any remaining non-conformities. This procedure shall be repeated as necessary until the Project Plan is free from non-conformities. When the Project Plan is free from non-conformities, the procuring entity shall provide confirmation in writing to the supplier. This approved Project Plan (“the Agreed Project Plan”) shall be contractually binding on the procuring entity and the supplier.   3. If required, the impact on the Implementation Schedule of modifications agreed during finalization of the Agreed Project Plan shall be incorporated in the contract by amendment, in accordance with GCC Clauses 41 and 42.   4. The supplier shall undertake to supply, install, test, and commission the goods in accordance with the Agreed Project Plan and the contract.   5. Unless otherwise specified in the SCC, the supplier shall submit to the procuring entity Monthly Progress Reports summarizing:   (i) results accomplished during the prior period;  (ii) cumulative deviations to date from schedule of progress milestones as specified in the Agreed Project Plan;  (iii) corrective actions to be taken to return to planned schedule of progress; proposed revisions to planned schedule;  (iv) other issues and outstanding problems; proposed actions to be taken;  (v) resources that the supplier expects to be provided by the procuring entity and/or actions to be taken by the procuring entity in the next reporting period;  (vi) other issues or potential problems the supplier foresees that could impact on project progress and/or effectiveness.   * 1. The supplier shall submit to the procuring entity other (periodic) reports as specified in the SCC. | |
| 22 Subcontracting   * 1. Appendix 3 (List of Approved Subcontractors) to the Contract Agreement specifies critical items of supply or services and a list of Subcontractors for each item that are considered acceptable by the procuring entity. If no Subcontractors are listed for an item, the supplier shall prepare a list of Subcontractors it considers qualified and wishes to be added to the list for such items. The supplier may from time to time propose additions to or deletions from any such list. The supplier shall submit any such list or any modification to the list to the procuring entity for its approval in sufficient time so as not to impede the progress of work on the goods. The procuring entity shall not withhold such approval unreasonably. Such approval by the procuring entity of a Subcontractor(s) shall not relieve the supplier from any of its obligations, duties, or responsibilities under the contract.   2. The supplier may, at its discretion, select and employ Subcontractors for such critical items from those Subcontractors listed pursuant to GCC Clause 22.1. If the supplier wishes to employ a Subcontractor not so listed, or subcontract an item not so listed, it must seek the procuring entity’s prior approval under GCC Clause 22.3.   3. For items for which pre-approved Subcontractor lists have not been specified in Appendix 3 to the Contract Agreement, the supplier may employ such Subcontractors as it may select, provided: (i) the supplier notifies the procuring entity in writing at least twenty-eight (28) days prior to the proposed mobilization date for such Subcontractor; and (ii) by the end of this period either the procuring entity has granted its approval in writing or fails to respond. The supplier shall not engage any Subcontractor to which the procuring entity has objected in writing prior to the end of the notice period. The absence of a written objection by the procuring entity during the above specified period shall constitute formal acceptance of the proposed Subcontractor. Except to the extent that it permits the deemed approval of the procuring entity of Subcontractors not listed in the Contract Agreement, nothing in this Clause, however, shall limit the rights and obligations of either the procuring entity or supplier as they are specified in GCC Clauses 22.1 and 22.2, or in Appendix 3 of the Contract Agreement. |
| 23. Design and Engineering   * 1. Technical Specifications and Drawings   23.1.1 The supplier shall execute the basic and detailed design and the implementation activities necessary for successful installation of the goods in compliance with the provisions of the contract or, where not so specified, in accordance with good industry practice.  The supplier shall be responsible for any discrepancies, errors or omissions in the specifications, drawings, and other technical documents that it has prepared, whether such specifications, drawings, and other documents have been approved by the Project Manager or not, provided that such discrepancies, errors, or omissions are not because of inaccurate information furnished in writing to the supplier by or on behalf of the procuring entity.  23.1.2 The supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification, or other document, or any modification of such design, drawings, specification, or other documents provided or designated by or on behalf of the procuring entity, by giving a notice of such disclaimer to the Project Manager.   * 1. Codes and Standards   Wherever references are made in the contract to codes and standards in accordance with which the contract shall be executed, the edition or the revised version of such codes and standards current at the date twenty-eight (28) days prior to date of bid submission shall apply. During contract execution, any changes in such codes and standards shall be applied after approval by the procuring entity and shall be treated in accordance with GCC Clause 41.3.   * 1. Approval/Review of Controlling Technical Documents by the Project Manager   23.3.1 **Unless otherwise specified in the SCC**, there will NO Controlling Technical Documents required. However, **if the SCC specifies** Controlling Technical Documents, the supplier shall prepare and furnish such documents for the Project Manager’s approval or review.  Any part of the goods covered by or related to the documents to be approved by the Project Manager shall be executed only after the Project Manager’s approval of these documents.  GCC Clauses 23.3.2 through 23.3.7 shall apply to those documents requiring the Project Manager’s approval, but not to those furnished to the Project Manager for its review only.  23.3.2 Within fourteen (14) days after receipt by the Project Manager of any document requiring the Project Manager’s approval in accordance with GCC Clause 23.3.1, the Project Manager shall either return one copy of the document to the supplier with its approval endorsed on the document or shall notify the supplier in writing of its disapproval of the document and the reasons for disapproval and the modifications that the Project Manager proposes. If the Project Manager fails to take such action within the fourteen (14) days, then the document shall be deemed to have been approved by the Project Manager.  23.3.3 The Project Manager shall not disapprove any document except on the grounds that the document does not comply with some specified provision of the contract or that it is contrary to good industry practice.  23.3.4 If the Project Manager disapproves the document, the supplier shall modify the document and resubmit it for the Project Manager’s approval in accordance with GCC Clause 23.3.2. If the Project Manager approves the document subject to modification(s), the supplier shall make the required modification(s), and the document shall then be deemed to have been approved, subject to GCC Clause 23.3.5. The procedure set out in GCC Clauses 23.3.2 through 23.3.4 shall be repeated, as appropriate, until the Project Manager approves such documents.  23.3.5 If any dispute occurs between the procuring entity and the supplier in connection with or arising out of the disapproval by the Project Manager of any document and/or any modification(s) to a document that cannot be settled between the parties within a reasonable period, then, in case the Contract Agreement includes and names an Adjudicator, such dispute may be referred to the Adjudicator for determination in accordance with GCC Clause 43.1 (Adjudicator). If such dispute is referred to an Adjudicator, the Project Manager shall give instructions as to whether and if so, how, performance of the contract is to proceed. The supplier shall proceed with the contract in accordance with the Project Manager’s instructions, provided that if the Adjudicator upholds the supplier’s view on the dispute and if the procuring entity has not given notice under GCC Clause 43.1.2, then the supplier shall be reimbursed by the procuring entity for any additional costs incurred by reason of such instructions and shall be relieved of such responsibility or liability in connection with the dispute and the execution of the instructions as the Adjudicator shall decide, and the Time for Achieving Operational Acceptance shall be extended accordingly.  23.3.6 The Project Manager’s approval, with or without modification of the document furnished by the supplier, shall not relieve the supplier of any responsibility or liability imposed upon it by any provisions of the contract except to the extent that any subsequent failure results from modifications required by the Project Manager or inaccurate information furnished in writing to the supplier by or on behalf of the procuring entity.   * 1. The supplier shall not depart from any approved document unless the supplier has first submitted to the Project Manager an amended document and obtained the Project Manager’s approval of the document, pursuant to the provisions of this GCC Clause 23.3. If the Project Manager requests any change in any already approved document and/or in any document based on such an approved document, the provisions of GCC Clause 41 (Changes to the goods) shall apply to such request. |
| 24. Procurement, Delivery, and Transport  24.1 Subject to related procuring entity's responsibilities pursuant to GCC Clauses 13 and 17, the supplier shall manufacture or procure and transport all the goods and materials in an expeditious and orderly manner to the Project Site.  24.2 Delivery of the goods and materials shall be made by the supplier in accordance with the Technical Requirements.  24.3 Early or partial deliveries require the explicit written consent of the procuring entity, which consent shall not be unreasonably withheld.  24.4 Transportation  24.4.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during shipment. The packing, marking, and documentation within and outside the packages shall comply strictly with the procuring entity’s instructions to the supplier.   * + 1. The supplier will bear responsibility for and cost of transport to the Project Sites in accordance with the terms and conditions used in the specification of prices in the Schedule of Requirements, including the terms and conditions of the associated Incoterms.     2. **Unless otherwise specified in the SCC,** the supplier shall be free to use transportation through carriers registered in any eligible country and to obtain insurance from any eligible source country.   24.5 **Unless otherwise specified in the SCC,** the supplier will provide the procuring entity with shipping and other documents, as specified below:  24.5.1 For goods supplied from outside Jamaica:  Upon shipment, the supplier shall notify the procuring entity and the insurance company contracted by the supplier to provide cargo insurance by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The supplier shall promptly send the following documents to the procuring entity by mail or courier, as appropriate, with a copy to the cargo insurance company:  (a) two copies of the supplier’s invoice showing the description of the goods, quantity, unit price, and total amount;  (b) usual transportation documents;  (c) insurance certificate;  (d) certificate(s) of origin; and  (e) estimated time and point of arrival in Jamaica and at the site.  24.5.2 For goods supplied locally (i.e., from within Jamaica):  Upon shipment, the supplier shall notify the procuring entity by telex, cable, facsimile, electronic mail, or EDI with the full details of the shipment. The supplier shall promptly send the following documents to the procuring entity by mail or courier, as appropriate:  (a) two copies of the supplier’s invoice showing the goods’ description, quantity, unit price, and total amount;  (b) delivery note, railway receipt, or truck receipt;  (c) certificate of insurance;  (d) certificate(s) of origin; and  (e) estimated time of arrival at the site.  24.6 Customs Clearance  (a) The procuring entity will bear responsibility for, and cost of, customs clearance into Jamaica in accordance the particular Incoterm(s) used for goods supplied from outside Jamaica in the Schedule of Requirements referred to by Article 2 of the Contract Agreement.  (b) At the request of the procuring entity, the supplier will make available a representative or agent during the process of customs clearance in Jamaica for goods supplied from outside Jamaica. In the event of delays in customs clearance that are not the fault of the supplier:  (i) the supplier shall be entitled to an extension in the Time for Achieving Operational Acceptance, pursuant to GCC Clause 42;  (ii) the Contract Price shall be adjusted to compensate the supplier for any additional storage charges that the supplier may incur as a result of the delay. |
| |  | | --- | | 25. Product Upgrades  25.1 At any point during performance of the contract, should technological advances be introduced by the supplier for the goods originally offered by the supplier in its bid and still to be delivered, the supplier shall be obligated to offer to the procuring entity the latest versions of the available goods having equal or better performance or functionality at the same or lesser unit prices, pursuant to GCC Clause 41 (Changes to the goods).  25.2 At any point during performance of the contract, for the goods still to be delivered, the supplier will also pass on to the procuring entity any cost reductions and additional and/or improved support and facilities that it offers to other clients of the supplier in Jamaica, pursuant to GCC Clause 41 (Changes to the goods).  25.3 During performance of the contract, the supplier shall offer to the procuring entity all new versions, releases, and updates of the goods, as well as related documentation and technical support services, within thirty (30) days of their availability from the supplier to other clients of the supplier in Jamaica, and no later than twelve (12) months after they are released in the country of origin. In no case will the prices for these goods exceed those quoted by the supplier in the Recurrent Costs tables in its bid.  25.4 **Unless otherwise specified in the SCC,** during the Warranty Period, the supplier will provide at no additional cost to the procuring entity all new versions, releases, and updates for all the goods, within thirty (30) days of their availability from the supplier to other clients of the supplier in Jamaica, and no later than twelve (12) months after they are released in the country of origin of the goods.  25.5 The procuring entity shall introduce all new versions, releases or updates of the goods within eighteen (18) months of receipt of a production-ready copy of the new version, release, or update, provided that the new version, release, or update does not adversely affect the good’s operation or performance or require extensive reworking of the goods. In cases where the new version, release, or update adversely affects the good’s operation or performance, or requires extensive reworking of the goods, the supplier shall continue to support and maintain the version or release previously in operation for as long as necessary to allow introduction of the new version, release, or update. In no case shall the supplier stop supporting or maintaining a version or release of the goods are less than twenty-four (24) months after the procuring entity receives a production-ready copy of a subsequent version, release, or update. The procuring entity shall use all reasonable endeavors to implement any new version, release, or update as soon as practicable, subject to the twenty-four-month-long stop date. | | 26. Implementation, Installation, and Other services  26.1 The supplier shall provide all services specified in the contract and Agreed Project Plan in accordance with the highest standards of professional competence and integrity.  26.2 Prices charged by the supplier for services, if not included in the contract, shall be agreed upon in advance by the parties (including, but not restricted to, any prices submitted by the supplier in the Recurrent Cost Schedules of its bid) and shall not exceed the prevailing rates charged by the supplier to other purchasers in Jamaica for similar services. | |
| 27 Inspections and Tests  27.1 The procuring entity or its representative shall have the right to inspect and/or test any components of the goods, as specified in the Technical Requirements, to confirm their good working order and/or conformity to the contract at the point of delivery and/or at the Project Site.  27.2 The procuring entity or its representative shall be entitled to attend any such inspections and/or tests of the components, provided that the procuring entity shall bear all costs and expenses incurred in connection with such attendance, including but not limited to all inspection agent fees, travel, and related expenses.  27.3 Should the inspected or tested components fail to conform to the contract, the procuring entity may reject the component(s), and the supplier shall either replace the rejected component(s), or make alterations as necessary so that it meets the contract requirements free of cost to the procuring entity.  27.4 The Project Manager may require the supplier to carry out any inspection and/or test not specified in the contract, provided that the supplier’s reasonable costs and expenses incurred in the carrying out of such inspection and/or test shall be added to the contract Price. Further, if such inspection and/or test impedes the progress of work on the goods and/or the supplier’s performance of its other obligations under the contract, due allowance will be made in respect of the Time for Achieving Operational Acceptance and the other obligations so affected.  27.5 If any dispute shall arise between the parties in connection with or caused by an inspection and/or with regard to any component to be incorporated in the goods that cannot be settled amicably between the parties within a reasonable period of time, either party may invoke the process pursuant to GCC Clause 45 (Settlement of Disputes), starting with referral of the matter to the Adjudicator in case an Adjudicator is included and named in the Contract Agreement. |
| 28. Installation of the Goods  28.1 As soon as the goods, has, in the opinion of the supplier, been delivered, Pre-commissioned, and made ready for Commissioning and Operational Acceptance Testing in accordance with the Technical Requirements, the SCC and the Agreed Project Plan, the supplier shall so notify the procuring entity in writing.  28.2 The Project Manager shall, within fourteen (14) days after receipt of the supplier’s notice under GCC Clause 28.1, either issue an Installation Certificate in the form specified in the Sample contractual Forms Section in the bidding documents, stating that the goods, or major component (if Acceptance by major component is specified pursuant to the SCC for GCC Clause 29.2.1), has achieved Installation by the date of the supplier’s notice under GCC Clause 28.1, or notify the supplier in writing of any defects and/or deficiencies, including, but not limited to, defects or deficiencies in the interoperability or integration of the various components making up the goods. The supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies that the Project Manager has notified the supplier of. The supplier shall then promptly carry out retesting of the goods and, when in the supplier’s opinion the goods is ready for Commissioning and Operational Acceptance Testing, notify the procuring entity in writing, in accordance with GCC Clause 28.1. The procedure set out in this GCC Clause 28.2 shall be repeated, as necessary, until an Installation Certificate is issued.  28.3 If the Project Manager fails to issue the Installation Certificate and fails to inform the supplier of any defects and/or deficiencies within fourteen (14) days after receipt of the supplier’s notice under GCC Clause 28.1, or if the procuring entity puts the goods into production operation, then the goods (or major component) shall be deemed to have achieved successful Installation as of the date of the supplier’s notice or repeated notice, or when the procuring entity put the goods into production operation, as the case may be. |
| 29. Commissioning and Operational Acceptance  29.1 Commissioning  29.1.1 Commissioning of the goods (or major component if specified pursuant to the SCC for GCC Clause 29.2.1) shall be commenced by the supplier:  (a) immediately after the Installation Certificate is issued by the Project Manager, pursuant to GCC Clause 28.2; or  (b) as otherwise specified in the Technical Requirement or the Agreed Project Plan; or  (c) immediately after Installation is deemed to have occurred, under GCC Clause 28.3.  29.1.2 The procuring entity shall supply the operating and technical personnel and all materials and information reasonably required to enable the supplier to carry out its obligations with respect to Commissioning.  Production use of the goods shall not commence prior to the start of formal Operational Acceptance Testing.  29.2 Operational Acceptance Tests  29.2.1 The Operational Acceptance Tests (and repeats of such tests) shall be the primary responsibility of the procuring entity (in accordance with GCC Clause 13.9), but shall be conducted with the full cooperation of the supplier during Commissioning of the goods (or major components), to ascertain whether the goods (or major component) conforms to the Technical Requirements and meets the standard of performance quoted in the supplier’s bid, including, but not restricted to, the functional and technical performance requirements. **Unless otherwise specified in the SCC**, the Operational Acceptance Tests during Commissioning will be conducted as specified in the Technical Requirements and/or the Agreed Project Plan.  At the procuring entity’s discretion, Operational Acceptance Tests may also be performed on replacement goods, upgrades and new version releases, and goods that are added or field-modified after Operational Acceptance of the goods.  29.2.2 If for reasons attributable to the procuring entity, the Operational Acceptance Test of the goods (or major components, pursuant to the SCC for GCC Clause 29.2.1) cannot be successfully completed within ninety (90) days from the date of Installation or any other period agreed upon in writing by the procuring entity and the supplier, the supplier shall be deemed to have fulfilled its obligations with respect to the technical and functional aspects of the Technical Specifications, SCC and/or the Agreed Project Plan, and GCC Clause 30.2 and 30.3 shall not apply.  29.3 Operational Acceptance  29.3.1 Subject to GCC Clause 29.4 (Partial Acceptance) below, Operational Acceptance shall occur in respect of the goods, when  (a) the Operational Acceptance Tests, as specified in the Technical Requirements, and/or SCC and/or the Agreed Project Plan have been successfully completed; or  (b) the Operational Acceptance Tests have not been successfully completed or have not been carried out for reasons that are attributable to the procuring entity within the period from the date of Installation or any other agreed-upon period as specified in GCC Clause 29.2.2 above; or  (c) the procuring entity has put the goods into production or use for sixty (60) consecutive days. If the goods are put into production or use in this manner, the supplier shall notify the procuring entity and document such use.  29.3.2 At any time after any of the events set out in GCC Clause 29.3.1 have occurred, the supplier may give a notice to the Project Manager requesting the issue of an Operational Acceptance Certificate.  29.3.3 After consultation with the procuring entity, and within fourteen (14) days after receipt of the supplier’s notice, the Project Manager shall:  (a) issue an Operational Acceptance Certificate; or  (b) notify the supplier in writing of any defect or deficiencies or other reason for the failure of the Operational Acceptance Tests; or  (c) issue the Operational Acceptance Certificate, if the situation covered by GCC Clause 29.3.1 (b) arises.  29.3.4 The supplier shall use all reasonable endeavors to promptly remedy any defect and/or deficiencies and/or other reasons for the failure of the Operational Acceptance Test that the Project Manager has notified the supplier of. Once such remedies have been made by the supplier, the supplier shall notify the procuring entity, and the procuring entity, with the full cooperation of the supplier, shall use all reasonable endeavors to promptly carry out retesting of the goods. Upon the successful conclusion of the Operational Acceptance Tests, the supplier shall notify the procuring entity of its request for Operational Acceptance Certification, in accordance with GCC Clause 29.3.3. The procuring entity shall then issue to the supplier the Operational Acceptance Certification in accordance with GCC Clause 29.3.3 (a), or shall notify the supplier of further defects, deficiencies, or other reasons for the failure of the Operational Acceptance Test. The procedure set out in this GCC Clause 29.3.4 shall be repeated, as necessary, until an Operational Acceptance Certificate is issued.  29.3.5 If the goods fail to pass the Operational Acceptance Test(s) in accordance with GCC Clause 29.2, then either:  (a) the procuring entity may consider terminating the contract, pursuant to GCC Clause 43.2.2;  or  (b) if the failure to achieve Operational Acceptance within the specified time period is a result of the failure of the procuring entity to fulfill its obligations under the contract, then the supplier shall be deemed to have fulfilled its obligations with respect to the relevant technical and functional aspects of the contract, and GCC Clauses 32.3 and 32.4 shall not apply.  29.3.6 If within fourteen (14) days after receipt of the supplier’s notice the Project Manager fails to issue the Operational Acceptance Certificate or fails to inform the supplier in writing of the justifiable reasons why the Project Manager has not issued the Operational Acceptance Certificate, the goods shall be deemed to have been accepted as of the date of the supplier’s said notice.  29.4 Partial Acceptance  29.4.1 If so specified in the SCC for GCC Clause 29.2.1, Installation and Commissioning shall be carried out individually for each identified major component or goods. In this event, the provisions in the contract relating to Installation and Commissioning, including the Operational Acceptance Test, shall apply to each such major component individually, and Operational Acceptance Certificate(s) shall be issued accordingly for each such major component, subject to the limitations contained in GCC Clause 29.4.2.  29.4.2 The issuance of Operational Acceptance Certificates for individual major components pursuant to GCC Clause 29.4.1 shall not relieve the supplier of its obligation to obtain an Operational Acceptance Certificate for the goods as an integrated whole (if so specified in the SCC for GCC Clauses 15.1 and 29.2.1) once all major components have been supplied, installed, tested, and commissioned.  29.4.3 In the case of minor components for the goods that by their nature do not require Commissioning or an Operational Acceptance Test (e.g., minor fittings, furnishings or site, etc.), the Project Manager shall issue an Operational Acceptance Certificate within fourteen (14) days after the fittings and/or furnishings have been delivered and/or installed or the site have been completed. The supplier shall, however, use all reasonable endeavors to promptly remedy any defects or deficiencies in such minor components detected by the procuring entity or supplier. |
| 30. Operational Acceptance Time Guarantee  30.1 The supplier guarantees that it shall complete the supply, Installation, Commissioning, and achieve Operational Acceptance of the goods (or major component, pursuant to the SCC for GCC Clause 29.2.1) within the time periods specified in the Implementation Schedule and/or the Agreed Project Plan pursuant to GCC Clause 11.2, or within such extended time to which the supplier shall be entitled under GCC Clause 42 (Extension of Time for Achieving Operational Acceptance).  30.2 **Unless otherwise specified in the SCC**, if the supplier fails to supply, install, commission, and achieve Operational Acceptance of the Goods (or major component pursuant to the SCC for GCC Clause 29.2.1) within the time for achieving Operational Acceptance specified in the Implementation Schedule or the Agreed Project Plan, or any extension of the time for achieving Operational Acceptance previously granted under GCC Clause 42 (Extension of Time for Achieving Operational Acceptance), the supplier shall pay to the procuring entity liquidated damages at the rate of one half of one percent per week as a percentage of the contract Price (exclusive of Recurrent Costs if any), or the relevant part of the contract Price if a major component has not achieved Operational Acceptance. The aggregate amount of such liquidated damages shall in no event exceed the amount of ten (10) percent of the contract Price (exclusive of Recurrent Costs if any). Once the Maximum is reached, the procuring entity may consider termination of the contract, pursuant to GCC Clause 43.2.2.  30.3 **Unless otherwise specified in the SCC,** liquidated damages payable under GCC Clause 30.2 shall apply only to the failure to achieve Operational Acceptance of the Goods (and major component) as specified in the Implementation Schedule and/or Agreed Project Plan. This Clause 30.3 shall not limit, however, any other rights or remedies the procuring entity may have under the contract for other delays.  30.4 If liquidated damages are claimed by the procuring entity for the goods (or major component), the supplier shall have no further liability whatsoever to the procuring entity in respect to the Operational Acceptance time guarantee for the Goods (or major component). However, the payment of liquidated damages shall not in any way relieve the supplier from any of its obligations to complete the goods or from any other of its obligations and liabilities under the contract. |
| 31. Defect Liability  31.1 The supplier warrants that the goods, including all materials supplied and services provided, shall be free from defects in the design, engineering, Materials, and workmanship that prevent the goods and/or any of its components from fulfilling the Technical Requirements or that limit in a material fashion the performance, reliability, or extensibility of the goods. **Unless otherwise specified in the SCC**, there will be NO exceptions and/or limitations to this warranty with respect to the goods. Commercial warranty provisions of products supplied under the contract shall apply to the extent that they do not conflict with the provisions of this contract.  31.2 The supplier also warrants that the goods and materials supplied under the contract are new, unused, and incorporate all recent improvements in design that materially affect the goods’ ability to fulfill the Technical Requirements.  31.3 **Unless otherwise specified in the SCC,** the supplier warrants that: (i) all goods components to be incorporated into the goods form part of the supplier’s and/or Subcontractor’s current product lines, and (ii) they have been previously released to the market.  31.4 **Unless otherwise specified in the SCC**, the Warranty Period shall commence from the date of Operational Acceptance of the goods (or of any major component for which separate Operational Acceptance is provided for in the contract) and shall extend for thirty-six (36) months.  31.5 If during the Warranty Period any defect as described in GCC Clause 33.1 should be found in the design, engineering, Materials, and workmanship of the goods supplied or of the services provided by the supplier, the supplier shall promptly, in consultation and agreement with the procuring entity regarding appropriate remedying of the defects, and at its sole cost, repair, replace, or otherwise make good (as the supplier shall, at its discretion, determine) such defect as well as any damage to the goods caused by such defect. Any defective goods that have been replaced by the supplier shall remain the property of the supplier.  31.6 The supplier shall not be responsible for the repair, replacement, or making good of any defect, or of any damage to the goods arising out of or resulting from any of the following causes:  (a) improper operation or maintenance of the goods by the procuring entity;  (b) normal wear and tear;  (c) use of the goods with items not supplied by the supplier, unless otherwise identified in the Technical Requirements, or approved by the supplier; or  (d) modifications made to the goods by the procuring entity, or a third party, not approved by the supplier.  31.7 The supplier’s obligations under this GCC Clause 31 shall not apply to:  (a) any materials that are normally consumed in operation or have a normal life shorter than the Warranty Period; or  (b) any designs, specifications, or other data designed, supplied, or specified by or on behalf of the procuring entity or any matters for which the supplier has disclaimed responsibility, in accordance with GCC Clause 23.1.2.  31.8 The procuring entity shall give the supplier a notice promptly following the discovery of such defect, stating the nature of any such defect together with all available evidence. The procuring entity shall afford all reasonable opportunity for the supplier to inspect any such defect. The procuring entity shall afford the supplier all necessary access to the goods and the site to enable the supplier to perform its obligations under this GCC Clause 31.  31.9 The supplier may, with the consent of the procuring entity, remove from the site any goods that are defective, if the nature of the defect, and/or any damage to the goods caused by the defect, is such that repairs cannot be expeditiously carried out at the site. If the repair, replacement, or making good is of such a character that it may affect the efficiency of the goods, the procuring entity may give the supplier notice requiring that tests of the defective part be made by the supplier immediately upon completion of such remedial work, whereupon the supplier shall carry out such tests.  If such part fails the tests, the supplier shall carry out further repair, replacement, or making good (as the case may be) until that part of the goods passes such tests. The tests shall be agreed upon by the procuring entity and the supplier.  31.10 **Unless otherwise specified in the SCC**, the response times and repair/replacement times for Warranty Defect Repair are specified in the Technical Requirements. Nevertheless, if the supplier fails to commence the work necessary to remedy such defect or any damage to the goods caused by such defect within two weeks the procuring entity may, following notice to the supplier, proceed to do such work or contract a third party (or parties) to do such work, and the reasonable costs incurred by the procuring entity in connection with such work shall be paid to the procuring entity by the supplier or may be deducted by the procuring entity from any monies due the supplier or claimed under the Performance Security.  31.11 If the goods cannot be used by reason of such defect and/or making good of such defect, the Warranty Period for the goods shall be extended by a period equal to the period during which the goods could not be used by the procuring entity because of such defect and/or making good of such defect.  31.12 Items substituted for defective parts of the goods during the Warranty Period shall be covered by the Defect Liability Warranty for the remainder of the Warranty Period applicable for the part replaced or three (3) months, whichever is greater. For reasons of information security, the procuring entity may choose to retain physical possession of any replaced defective information storage devices.  31.13 At the request of the procuring entity and without prejudice to any other rights and remedies that the procuring entity may have against the supplier under the contract, the supplier will offer all possible assistance to the procuring entity to seek warranty services or remedial action from any subcontracted third-party producers or licensor of goods included in the goods, including without limitation assignment or transfer in favor of the procuring entity of the benefit of any warranties given by such producers or licensors to the supplier. |
| 32. Functional Guarantees  32.1 The supplier guarantees that, once the Operational Acceptance Certificate(s) has been issued, the goods represent a complete, integrated solution to the procuring entity’s requirements set forth in the Technical Requirements and it conforms to all other aspects of the contract. The supplier acknowledges that GCC Clause 29 regarding Commissioning and Operational Acceptance governs how technical conformance of the goods to the contract requirements will be determined.  32.2 If, for reasons attributable to the supplier, the goods do not conform to the Technical Requirements or does not conform to all other aspects of the contract, the supplier shall at its cost and expense make such changes, modifications, and/or additions to the goods as may be necessary to conform to the Technical Requirements and meet all functional and performance standards. The supplier shall notify the procuring entity upon completion of the necessary changes, modifications, and/or additions and shall request the procuring entity to repeat the Operational Acceptance Tests until the goods achieves Operational Acceptance.  32.3 If the goods (or major component) fails to achieve Operational Acceptance, the procuring entity may consider termination of the contract, pursuant to GCC Clause 43.2.2, and forfeiture of the supplier’s Performance Security in accordance with GCC Clause 16.3 in compensation for the extra costs and delays likely to result from this failure. |
| 33. Intellectual Property Rights Warranty  33.1 The supplier hereby represents and warrants that:  (a) the goods as supplied, installed, tested, and accepted;  (b) use of the goods in accordance with the contract; and  (c) copying of the goods and Materials provided to the procuring entity in accordance with the contract  do not and will not infringe any Intellectual Property Rights held by any third party and that it has all necessary rights or at its sole expense shall have secured in writing all transfers of rights and other consents necessary to make the assignments, licenses, and other transfers of Intellectual Property Rights and the warranties set forth in the contract, and for the procuring entity to own or exercise all Intellectual Property Rights as provided in the contract. Without limitation, the supplier shall secure all necessary written agreements, consents, and transfers of rights from its employees and other persons or entities whose services are used for development of the goods. |
| 34. Intellectual Property Rights Indemnity  34.1 The supplier shall indemnify and hold harmless the procuring entity and its employees and officers from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability), that the procuring entity or its employees or officers may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights by reason of:  (a) installation of the goods by the supplier or the use of the goods, including the Materials, in Jamaica;  (b) copying of the goods and Materials provided the supplier in accordance with the Agreement; and  (c) sale of the products produced by the goods in any country, except to the extent that such losses, liabilities, and costs arise as a result of the procuring entity’s breach of GCC Clause 34.2.  34.2 Such indemnity shall not cover any use of the goods, including the Materials, other than for the purpose indicated by or to be reasonably inferred from the contract, any infringement resulting from the use of the goods, or any products of the goods produced thereby in association or combination with any other goods or services not supplied by the supplier, where the infringement arises because of such association or combination and not because of use of the goods in its own right.  34.3 Such indemnities shall also not apply if any claim of infringement:  (a) is asserted by a parent, subsidiary, or affiliate of the procuring entity’s organization;  (b) is a direct result of a design mandated by the procuring entity’s Technical Requirements and the possibility of such infringement was duly noted in the supplier’s bid; or  (c) results from the alteration of the goods, including the Materials, by the procuring entity or any persons other than the supplier or a person authorized by the supplier.  34.4 If any proceedings are brought or any claim is made against the procuring entity arising out of the matters referred to in GCC Clause 34.1, the procuring entity shall promptly give the supplier notice of such proceedings or claims, and the supplier may at its own expense and in the procuring entity’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.  If the supplier fails to notify the procuring entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the procuring entity shall be free to conduct the same on its own behalf. Unless the supplier has so failed to notify the procuring entity within the twenty-eight (28) days, the procuring entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The procuring entity 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.  34.5 The procuring entity shall indemnify and hold harmless the supplier and its employees, officers, and Subcontractors from and against any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the supplier or its employees, officers, or Subcontractors may suffer as a result of any infringement or alleged infringement of any Intellectual Property Rights arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided to the supplier in connection with this contract by the procuring entity or any persons (other than the supplier) contracted by the procuring entity, except to the extent that such losses, liabilities, and costs arise as a result of the supplier’s breach of GCC Clause 34.8.  34.6 Such indemnity shall not cover  (a) any use of the design, data, drawing, specification, or other documents or materials, other than for the purpose indicated by or to be reasonably inferred from the contract;  (b) any infringement resulting from the use of the design, data, drawing, specification, or other documents or materials, or any products produced thereby, in association or combination with any other goods or services not provided by the procuring entity or any other person contracted by the procuring entity, where the infringement arises because of such association or combination and not because of the use of the design, data, drawing, specification, or other documents or materials in its own right.  34.7 Such indemnities shall also not apply:  (a) if any claim of infringement is asserted by a parent, subsidiary, or affiliate of the supplier’s organization;  (b) to the extent that any claim of infringement is caused by the alteration, by the supplier, or any persons contracted by the supplier, of the design, data, drawing, specification, or other documents or materials provided to the supplier by the procuring entity or any persons contracted by the procuring entity.  34.8 If any proceedings are brought or any claim is made against the supplier arising out of the matters referred to in GCC Clause 34.5, the supplier shall promptly give the procuring entity notice of such proceedings or claims, and the procuring entity may at its own expense and in the supplier’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the procuring entity fails to notify the supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the supplier shall be free to conduct the same on its own behalf. Unless the procuring entity has so failed to notify the supplier within the twenty-eight (28) days, the supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The supplier shall, at the procuring entity’s request, afford all available assistance to the procuring entity in conducting such proceedings or claim and shall be reimbursed by the procuring entity for all reasonable expenses incurred in so doing. |
| 35. Limitation of Liability  35.1 Provided the following does not exclude or limit any liabilities of either party in ways not permitted by applicable law:  (a) the supplier shall not be liable to the procuring entity, 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 procuring entity; and  (b) the aggregate liability of the supplier to the procuring entity, whether under the contract, in tort or otherwise, shall not exceed the total contract Price, provided that this limitation shall not apply to any obligation of the supplier to indemnify the procuring entity with respect to intellectual property rights infringement. |
| 36. Transfer of Ownership  36.1 With the exception of any software, the ownership of the goods shall be transferred to the procuring entity at the time of Delivery or otherwise under terms that may be agreed upon and specified in the Contract Agreement.  36.2 Ownership and the terms of usage of any software supplied under the contract shall be governed by GCC Clause 18 (Copyright) and any elaboration in the Technical Requirements.  36.3 Ownership of the supplier’s Equipment used by the supplier and its Subcontractors in connection with the contract shall remain with the supplier or its Subcontractors. |
| 37. Care of the goods  37.1 The procuring entity shall become responsible for the care and custody of the goods upon their Delivery. The procuring entity shall make good at its own cost any loss or damage that may occur to the goods from any cause from the date of Delivery until the date of Operational Acceptance of the goods, pursuant to GCC Clause 29 (Commissioning and Operational Acceptance), excepting such loss or damage arising from acts or omissions of the supplier, its employees, or subcontractors.  37.2 If any loss or damage occurs to the goods or any part of the goods by reason of:  (a) (insofar as they relate to where the Project Site is located) nuclear reaction, nuclear radiation, radioactive contamination, a pressure wave caused by aircraft or other aerial objects, or any other occurrences that an experienced supplier could not reasonably foresee, or if reasonably foreseeable could not reasonably make provision for or insure against, insofar as such risks are not normally insurable on the insurance market and are mentioned in the general exclusions of the policy of insurance taken out under GCC Clause 39;  (b) any use not in accordance with the contract, by the procuring entity or any third party;  (c) any use of or reliance upon any design, data, or specification provided or designated by or on behalf of the procuring entity, or any such matter for which the supplier has disclaimed responsibility in accordance with GCC Clause 23.1.2,  the procuring entity shall pay to the supplier all sums payable in respect of the goods or major components that have achieved Operational Acceptance, notwithstanding that the same be lost, destroyed, or damaged. If the procuring entity requests the supplier in writing to make good any loss or damage to the goods thereby occasioned, the supplier shall make good the same at the cost of the procuring entity in accordance with GCC Clause 41. If the procuring entity does not request the supplier in writing to make good any loss or damage to the goods thereby occasioned, the procuring entity shall either request a change in accordance with GCC Clause 41, excluding the performance of that part of the goods thereby lost, destroyed, or damaged, or, where the loss or damage affects a substantial part of the goods, the procuring entity shall terminate the contract pursuant to GCC Clause 43.1.  37.3 The procuring entity shall be liable for any loss of or damage to any supplier’s Equipment which the procuring entity has authorized to locate within the procuring entity's premises for use in fulfillment of supplier's obligations under the contract, except where such loss or damage arises from acts or omissions of the supplier, its employees, or subcontractors. |
| 38. Loss of or Damage to Property; Accident or Injury to Workers; Indemnification  38.1 The supplier and each and every Subcontractor shall abide by the job safety, insurance, customs, and immigration measures prevalent and laws in force in Jamaica.  38.2 Subject to GCC Clause 38.3, the supplier shall indemnify and hold harmless the procuring entity and its employees and officers from and against any and all losses, liabilities and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the procuring entity or its employees or officers may suffer as a result of the death or injury of any person or loss of or damage to any property (other than the goods, whether accepted or not) arising in connection with the supply, installation, testing, and Commissioning of the goods and by reason of the negligence of the supplier or its Subcontractors, or their employees, officers or agents, except any injury, death, or property damage caused by the negligence of the procuring entity, its contractors, employees, officers, or agents.  38.3 If any proceedings are brought or any claim is made against the procuring entity that might subject the supplier to liability under GCC Clause 38.2, the procuring entity shall promptly give the supplier notice of such proceedings or claims, and the supplier may at its own expense and in the procuring entity’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the supplier fails to notify the procuring entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the procuring entity shall be free to conduct the same on its own behalf. Unless the supplier has so failed to notify the procuring entity within the twenty-eight (28) day period, the procuring entity shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The procuring entity 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.  38.4 The procuring entity shall indemnify and hold harmless the supplier and its employees, officers, and Subcontractors from any and all losses, liabilities, and costs (including losses, liabilities, and costs incurred in defending a claim alleging such a liability) that the supplier or its employees, officers, or Subcontractors may suffer as a result of the death or personal injury of any person or loss of or damage to property of the procuring entity, other than the goods not yet achieving Operational Acceptance, that is caused by fire, explosion, or any other perils, in excess of the amount recoverable from insurances procured under GCC Clause 39 (Insurances), provided that such fire, explosion, or other perils were not caused by any act or failure of the supplier.  38.5 If any proceedings are brought or any claim is made against the supplier that might subject the procuring entity to liability under GCC Clause 38.4, the supplier shall promptly give the procuring entity notice of such proceedings or claims, and the procuring entity may at its own expense and in the supplier’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim. If the procuring entity fails to notify the supplier within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the supplier shall be free to conduct the same on its own behalf. Unless the procuring entity has so failed to notify the supplier within the twenty-eight (28) days, the supplier shall make no admission that may be prejudicial to the defense of any such proceedings or claim. The supplier shall, at the procuring entity’s request, afford all available assistance to the procuring entity in conducting such proceedings or claim and shall be reimbursed by the procuring entity for all reasonable expenses incurred in so doing.  38.6 The party entitled to the benefit of an indemnity under this GCC Clause 38 shall take all reasonable measures to mitigate any loss or damage that has occurred. If the party fails to take such measures, the other party’s liabilities shall be correspondingly reduced. |
| 39. Insurances  39.1 The supplier shall at its expense take out and maintain in effect, or cause to be taken out and maintained in effect, during the performance of the contract, the insurance set forth below. The identity of the insurers and the form of the policies shall be subject to the approval of the procuring entity, who should not unreasonably withhold such approval.  (a) Cargo Insurance During Transport  as applicable, 110 percent of the price of the goods in a freely convertible currency, covering the goods from physical loss or damage during shipment through receipt at the Project Site.  (b) Installation “All Risks” Insurance  as applicable, 110 percent of the price of the goods at the site from all risks of physical loss or damage (excluding only perils commonly excluded under “all risks” insurance policies of this type by reputable insurers) occurring prior to Operational Acceptance of the goods.  (c) Third-Party Liability Insurance  On terms as **specified in the SCC,** covering bodily injury or death suffered by third parties (including the procuring entity’s personnel) and loss of or damage to property (including the procuring entity’s property and any major components that have been accepted by the procuring entity) occurring in connection with the supply and installation of the goods.  (d) Automobile Liability Insurance  In accordance with the statutory requirements prevailing in Jamaica, covering use of all vehicles used by the supplier or its Subcontractors (whether or not owned by them) in connection with the execution of the contract.  (e) Other Insurance (if any), as **specified in the SCC.**  39.2 The procuring entity shall be named as co-insured under all insurance policies taken out by the supplier pursuant to GCC Clause 39.1, except for the Third-Party Liability, and the supplier’s Subcontractors shall be named as co-insured under all insurance policies taken out by the supplier pursuant to GCC Clause 39.1 except for Cargo Insurance During Transport. All insurer’s rights of subrogation against such co-insured for losses or claims arising out of the performance of the contract shall be waived under such policies.  39.3 The supplier shall deliver to the procuring entity certificates of insurance (or copies of the insurance policies) as evidence that the required policies are in full force and effect.  39.4 The supplier shall ensure that, where applicable, its Subcontractor(s) shall take out and maintain in effect adequate insurance policies for their personnel and vehicles and for work executed by them under the contract, unless such Subcontractors are covered by the policies taken out by the supplier.  39.5 If the supplier fails to take out and/or maintain in effect the insurance referred to in GCC Clause 39.1, the procuring entity may take out and maintain in effect any such insurance and may from time to time deduct from any amount due the supplier under the contract any premium that the procuring entity shall have paid to the insurer or may otherwise recover such amount as a debt due from the supplier.  39.6 Unless otherwise provided in the contract, the supplier shall prepare and conduct all and any claims made under the policies affected by it pursuant to this GCC Clause 39, and all monies payable by any insurers shall be paid to the supplier. The procuring entity shall give to the supplier all such reasonable assistance as may be required by the supplier in connection with any claim under the relevant insurance policies. With respect to insurance claims in which the procuring entity’s interest is involved, the supplier shall not give any release or make any compromise with the insurer without the prior written consent of the procuring entity. With respect to insurance claims in which the supplier’s interest is involved, the procuring entity shall not give any release or make any compromise with the insurer without the prior written consent of the supplier. |
| 40. Force Majeure   |  | | --- | | 40.1 “Force Majeure” shall mean any event beyond the reasonable control of the procuring entity or of the supplier, as the case may be, and which is unavoidable notwithstanding the reasonable care of the party affected and shall include, without limitation, the following: | | (a) war, hostilities, or warlike operations (whether a state of war be declared or not), invasion, act of foreign enemy, and civil war;  (b) rebellion, revolution, insurrection, mutiny, usurpation of civil or military government, conspiracy, riot, civil commotion, and terrorist acts;  (c) confiscation, nationalization, mobilization, commandeering or requisition by or under the order of any government or de jure or de facto authority or ruler, or any other act or failure to act of any local state or national government authority;  (d) strike, sabotage, lockout, embargo, import restriction, port congestion, lack of usual means of public transportation and communication, industrial dispute, shipwreck, shortage or restriction of power supply, epidemics, quarantine, and plague;  (e) earthquake, landslide, volcanic activity, fire, flood or inundation, tidal wave, typhoon or cyclone, hurricane, storm, lightning, or other inclement weather condition, nuclear and pressure waves, or other natural or physical disaster;  (f) failure, by the supplier, to obtain the necessary export permit(s) from the governments of the Country(s) of Origin of the Information Technologies or other goods, or supplier’s Equipment provided that the supplier has made all reasonable efforts to obtain the required export permit(s), including the exercise of due diligence in determining the eligibility of the goods and all of its components for receipt of the necessary export permits.  40.2 If either party is prevented, hindered, or delayed from or in performing any of its obligations under the contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances of the event of Force Majeure within fourteen (14) days after the occurrence of such event.  40.3 The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the contract for so long as the relevant event of Force Majeure continues and to the extent that such party’s performance is prevented, hindered, or delayed. The Time for Achieving Operational Acceptance shall be extended in accordance with GCC Clause 42 (Extension of Time for Achieving Operational Acceptance).  40.4 The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect of the event of Force Majeure upon its or their performance of the contract and to fulfill its or their obligations under the contract, but without prejudice to either party’s right to terminate the contract under GCC Clause 40.6.  40.5 No delay or nonperformance by either party to this contract caused by the occurrence of any event of Force Majeure shall:  (a) constitute a default or breach of the contract;  (b) (subject to GCC Clauses 37.2, 40.3, and 40.4) give rise to any claim for damages or additional cost or expense occasioned by the delay or nonperformance,  if, and to the extent that, such delay or nonperformance is caused by the occurrence of an event of Force Majeure.  40.6 If the performance of the contract is substantially prevented, hindered, or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the time period covered by the contract, the parties will attempt to develop a mutually satisfactory solution, failing which, either party may terminate the contract by giving a notice to the other.  40.7 In the event of termination pursuant to GCC Clause 40.6, the rights and obligations of the procuring entity and the supplier shall be as specified in GCC Clauses 43.1.2 and 41.1.3.  40.8 Notwithstanding GCC Clause 40.5, Force Majeure shall not apply to any obligation of the procuring entity to make payments to the supplier under this contract. |   41. Changes to the goods  41.1 Introducing a Change  41.1.1 Subject to GCC Clauses 41.2.5 and 41.2.7, the procuring entity shall have the right to propose, and subsequently require, the Project Manager to order the supplier from time to time during the performance of the contract to make any change, modification, addition, or deletion to, in, or from the goods (interchangeably called “Change”), provided that such Change falls within the general scope of the goods, does not constitute unrelated work, and is technically practicable, taking into account both the state of advancement of the goods and the technical compatibility of the Change envisaged with the nature of the goods as originally specified in the contract.  A Change may involve, but is not restricted to, the substitution of updated goods and related services in accordance with GCC Clause 25 (Product Upgrades).  41.1.2 The supplier may from time to time during its performance of the contract propose to the procuring entity (with a copy to the Project Manager) any Change that the supplier considers necessary or desirable to improve the quality or efficiency of the goods. The procuring entity may at its discretion approve or reject any Change proposed by the supplier.  41.1.3 Notwithstanding GCC Clauses 41.1.1 and 41.1.2, no change made necessary because of any default of the supplier in the performance of its obligations under the contract shall be deemed to be a Change, and such change shall not result in any adjustment of the contract Price or the Time for Achieving Operational Acceptance.  41.1.4 The procedure on how to proceed with and execute Changes is specified in GCC Clauses 41.2 and 41.3, and further details and sample forms are provided in the Sample contractual Forms Section in the bidding documents.  41.1.5 Moreover, the procuring entity and supplier will agree, during development of the Project Plan, to a date prior to the scheduled date for Operational Acceptance, after which the Technical Requirements for the goods shall be “frozen.” Any Change initiated after this time will be dealt with after Operational Acceptance.  41.2 Changes Originating from procuring entity  41.2.1 If the procuring entity proposes a Change pursuant to GCC Clauses 41.1.1, it shall send to the supplier a “Request for Change bid,” requiring the supplier to prepare and furnish to the Project Manager as soon as reasonably practicable a “Change bid,” which shall include the following:  (a) brief description of the Change;  (b) impact on the Time for Achieving Operational Acceptance;  (c) detailed estimated cost of the Change;  (d) effect on Functional Guarantees (if any);  (e) effect on any other provisions of the contract.  41.2.2 Prior to preparing and submitting the “Change bid,” the supplier shall submit to the Project Manager a “Change Estimate bid,” which shall be an estimate of the cost of preparing the Change bid, plus a first approximation of the suggested approach and cost for implementing the changes. Upon receipt of the supplier’s Change Estimate bid, the procuring entity shall do one of the following:  (a) accept the supplier’s estimate with instructions to the supplier to proceed with the preparation of the Change bid;  (b) advise the supplier of any part of its Change Estimate bid that is unacceptable and request the supplier to review its estimate;  (c) advise the supplier that the procuring entity does not intend to proceed with the Change.  41.2.3 Upon receipt of the procuring entity’s instruction to proceed under GCC Clause 41.2.2 (a), the supplier shall, with proper expedition, proceed with the preparation of the Change bid, in accordance with GCC Clause 41.2.1. The supplier, at its discretion, may specify a validity period for the Change bid, after which if the procuring entity and supplier has not reached agreement in accordance with GCC Clause 41.2.6, then GCC Clause 41.2.7 shall apply.  41.2.4 The pricing of any Change shall, as far as practicable, be calculated in accordance with the rates and prices included in the contract. If the nature of the Change is such that the contract rates and prices are inequitable, the parties to the contract shall agree on other specific rates to be used for valuing the Change.  41.2.5 If before or during the preparation of the Change bid it becomes apparent that the aggregate impact of compliance with the Request for Change bid and with all other Change Orders that have already become binding upon the supplier under this GCC Clause 41 would be to increase or decrease the contract Price as originally set forth in Article 2 (contract Price) of the Contract Agreement by more than fifteen (15) percent, the supplier may give a written notice of objection to this Request for Change bid prior to furnishing the Change bid. If the procuring entity accepts the supplier’s objection, the procuring entity shall withdraw the proposed Change and shall notify the supplier in writing of its acceptance.  The supplier’s failure to so object to a Request for Change bid shall neither affect its right to object to any subsequent requested Changes or Change Orders, nor affect its right to take into account, when making such subsequent objection, the percentage increase or decrease in the contract Price that any Change not objected to by the supplier represents.  41.2.6 Upon receipt of the Change bid, the procuring entity and the supplier shall mutually agree upon all matters contained in the Change bid. Within fourteen (14) days after such agreement, the procuring entity shall, if it intends to proceed with the Change, issue the supplier a Change Order. If the procuring entity is unable to reach a decision within fourteen (14) days, it shall notify the supplier with details of when the supplier can expect a decision. If the procuring entity decides not to proceed with the Change for whatever reason, it shall, within the said period of fourteen (14) days, notify the supplier accordingly. Under such circumstances, the supplier shall be entitled to reimbursement of all costs reasonably incurred by it in the preparation of the Change bid, provided that these do not exceed the amount given by the supplier in its Change Estimate bid submitted in accordance with GCC Clause 41.2.2.  41.2.7 If the procuring entity and the supplier cannot reach agreement on the price for the Change, an equitable adjustment to the Time for Achieving Operational Acceptance, or any other matters identified in the Change bid, the Change will not be implemented. However, this provision does not limit the rights of either party under GCC Clause 45 (Settlement of Disputes).  41.3 Changes Originating from supplier  If the supplier proposes a Change pursuant to GCC Clause 41.1.2, the supplier shall submit to the Project Manager a written “Application for Change bid,” giving reasons for the proposed Change and including the information specified in GCC Clause 41.2.1. Upon receipt of the Application for Change bid, the parties shall follow the procedures outlined in GCC Clauses 41.2.6 and 41.2.7. However, should the procuring entity choose not to proceed or the procuring entity and the supplier cannot come to agreement on the change during any validity period that the supplier may specify in its Application for Change bid, the supplier shall not be entitled to recover the costs of preparing the Application for Change bid, unless subject to an agreement between the procuring entity and the supplier to the contrary.  41.4 Value engineering. The supplier may prepare, at its own cost, a value engineering bid at any time during the performance of the contract. The value engineering bid shall, at a minimum, include the following;  (a) the proposed change(s), and a description of the difference to the existing contract requirements;  (b) a full cost/benefit analysis of the proposed change(s) including a description and estimate of costs (including life cycle costs) the procuring entity may incur in implementing the value engineering bid; and  (c) a description of any effect(s) of the change on performance/functionality.  The procuring entity may accept the value engineering bid if the bid demonstrates benefits that:  (a) accelerates the delivery period; or  (b) reduces the contract Price or the life cycle costs to the procuring entity; or  (c) improves the quality, efficiency, safety or sustainability of the systems; or  (d) yields any other benefits to the procuring entity,  without compromising the necessary functions of the systems.  If the value engineering bid is approved by the procuring entity and results in:  (a) a reduction of the contract Price; the amount to be paid to the supplier shall be the percentage specified in the SCC of the reduction in the contract Price; or  (b) an increase in the contract Price; but results in a reduction in life cycle costs due to any benefit described in (a) to (d) above, the amount to be paid to the supplier shall be the full increase in the contract Price. |
| 42. Extension of Time for Achieving Operational Acceptance  42.1 The time(s) for achieving Operational Acceptance specified in the Schedule of Implementation shall be extended if the supplier is delayed or impeded in the performance of any of its obligations under the contract by reason of any of the following:  (a) any Change in the goods as provided in GCC Clause 41 (Change in the goods);  (b) any occurrence of Force Majeure as provided in GCC Clause 40 (Force Majeure);  (c) default of the procuring entity; or  (d) any other matter specifically mentioned in the contract;  by such period as shall be fair and reasonable in all the circumstances and as shall fairly reflect the delay or impediment sustained by the supplier.  42.2 Except where otherwise specifically provided in the contract, the supplier shall submit to the Project Manager a notice of a claim for an extension of the time for achieving Operational Acceptance, together with particulars of the event or circumstance justifying such extension as soon as reasonably practicable after the commencement of such event or circumstance. As soon as reasonably practicable after receipt of such notice and supporting particulars of the claim, the procuring entity and the supplier shall agree upon the period of such extension. In the event that the supplier does not accept the procuring entity’s estimate of a fair and reasonable time extension, the supplier shall be entitled to refer the matter to the provisions for the Settlement of Disputes pursuant to GCC Clause 45.  42.3 The supplier shall at all times use its reasonable efforts to minimize any delay in the performance of its obligations under the contract. |
| 43. Termination  43.1 Termination for procuring entity’s Convenience  43.1.1 The procuring entity may at any time terminate the contract for any reason by giving the supplier a notice of termination that refers to this GCC Clause 43.1.  43.1.2 Upon receipt of the notice of termination under GCC Clause 43.1.1, the supplier shall either as soon as reasonably practical or upon the date specified in the notice of termination  (a) cease all further work, except for such work as the procuring entity may specify in the notice of termination for the sole purpose of protecting that part of the goods already executed, or any work required to leave the site in a clean and safe condition;  (b) terminate all subcontracts, except those to be assigned to the procuring entity pursuant to GCC Clause 43.1.2 (d) (ii) below;  (c) remove all supplier’s Equipment from the site, repatriate the supplier’s and its Subcontractors’ personnel from the site, remove from the site any wreckage, rubbish, and debris of any kind;  (d) in addition, the supplier, subject to the payment specified in GCC Clause 431.1.3, shall  (i) deliver to the procuring entity the parts of the goods executed by the supplier up to the date of termination;  (ii) to the extent legally possible, assign to the procuring entity all right, title, and benefit of the supplier to the goods as at the date of termination, and, as may be required by the procuring entity, in any subcontracts concluded between the supplier and its Subcontractors;  (iii) deliver to the procuring entity all nonproprietary drawings, specifications, and other documents prepared by the supplier or its Subcontractors as of the date of termination in connection with the goods.  43.1.3 In the event of termination of the contract under GCC Clause 43.1.1, the procuring entity shall pay to the supplier the following amounts:  (a) the contract Price, properly attributable to the parts of the goods executed by the supplier as of the date of termination;  (b) the costs reasonably incurred by the supplier in the removal of the supplier’s Equipment from the site and in the repatriation of the supplier’s and its Subcontractors’ personnel;  (c) any amount to be paid by the supplier to its Subcontractors in connection with the termination of any subcontracts, including any cancellation charges;  (d) costs incurred by the supplier in protecting the goods and leaving the site in a clean and safe condition pursuant to GCC Clause 43.1.2 (a); and  (e) the cost of satisfying all other obligations, commitments, and claims that the supplier may in good faith have undertaken with third parties in connection with the contract and that are not covered by GCC Clauses 43.1.3 (a) through (d) above.  43.2 Termination for supplier’s Default  43.2.1 The procuring entity, without prejudice to any other rights or remedies it may possess, may terminate the contract forthwith in the following circumstances by giving a notice of termination and its reasons therefore to the supplier, referring to this GCC Clause 43.2:  (a) if the supplier becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, if the supplier is a corporation, a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the supplier takes or suffers any other analogous action in consequence of debt;  (b) if the supplier assigns or transfers the contract or any right or interest therein in violation of the provision of GCC Clause 44 (Assignment); or  (c) if the supplier, in the judgment of the procuring entity has engaged in Fraud and Corruption, as defined in GCC 3, in competing for or in executing the contract, including but not limited to willful misrepresentation of facts concerning ownership of Intellectual Property Rights in, or proper authorization and/or licenses from the owner to offer of materials provided under this contract.  43.2.2 If the supplier:  (a) has abandoned or repudiated the contract;  (b) has without valid reason failed to commence work on the goods promptly;  (c) persistently fails to execute the contract in accordance with the contract or persistently neglects to carry out its obligations under the contract without just cause;  (d) refuses or is unable to provide sufficient Materials, services, or labor to execute and complete the goods in the manner specified in the Agreed Project Plan furnished under GCC Clause 21 at rates of progress that give reasonable assurance to the procuring entity that the supplier can attain Operational Acceptance of the goods by the Time for Achieving Operational Acceptance as extended;  then the procuring entity may, without prejudice to any other rights it may possess under the contract, give a notice to the supplier stating the nature of the default and requiring the supplier to remedy the same. If the supplier fails to remedy or to take steps to remedy the same within fourteen (14) days of its receipt of such notice, then the procuring entity may terminate the contract forthwith by giving a notice of termination to the supplier that refers to this GCC Clause 43.2.  43.2.3 Upon receipt of the notice of termination under GCC Clauses 43.2.1 or 43.2.2, the supplier shall, either immediately or upon such date as is specified in the notice of termination:  (a) cease all further work, except for such work as the procuring entity may specify in the notice of termination for the sole purpose of protecting that part of the goods already executed or any work required to leave the site in a clean and safe condition;  (b) terminate all subcontracts, except those to be assigned to the procuring entity pursuant to GCC Clause 43.2.3 (d) below;  (c) deliver to the procuring entity the parts of the goods executed by the supplier up to the date of termination;  (d) to the extent legally possible, assign to the procuring entity all right, title and benefit of the supplier to the goods as at the date of termination, and, as may be required by the procuring entity, in any subcontracts concluded between the supplier and its Subcontractors;  (e) deliver to the procuring entity all drawings, specifications, and other documents prepared by the supplier or its Subcontractors as at the date of termination in connection with the goods.  43.2.4 The procuring entity may enter upon the site, expel the supplier, and complete the goods itself or by employing any third party. Upon completion of the goods or at such earlier date as the procuring entity thinks appropriate, the procuring entity shall give notice to the supplier that such supplier’s Equipment will be returned to the supplier at or near the site and shall return such supplier’s Equipment to the supplier in accordance with such notice. The supplier shall thereafter without delay and at its cost remove or arrange removal of the same from the site.  43.2.5 Subject to GCC Clause 43.2.6, the supplier shall be entitled to be paid the contract Price attributable to the portion of the goods executed as at the date of termination and the costs, if any, incurred in protecting the goods and in leaving the site in a clean and safe condition pursuant to GCC Clause 43.2.3 (a). Any sums due the procuring entity from the supplier accruing prior to the date of termination shall be deducted from the amount to be paid to the supplier under this contract.  43.2.6 If the procuring entity completes the goods, the cost of completing the goods by the procuring entity shall be determined. If the sum that the supplier is entitled to be paid, pursuant to GCC Clause 43.2.5, plus the reasonable costs incurred by the procuring entity in completing the goods, exceeds the contract Price, the supplier shall be liable for such excess. If such excess is greater than the sums due the supplier under GCC Clause 43.2.5, the supplier shall pay the balance to the procuring entity, and if such excess is less than the sums due the supplier under GCC Clause 43.2.5, the procuring entity shall pay the balance to the supplier. The procuring entity and the supplier shall agree, in writing, on the computation described above and the manner in which any sums shall be paid.  43.3 Termination by supplier  43.3.1 If:  (a) the procuring entity has failed to pay the supplier any sum due under the contract within the specified period, has failed to approve any invoice or supporting documents without just cause **pursuant to the SCC,** or commits a substantial breach of the contract, the supplier may give a notice to the procuring entity that requires payment of such sum, with interest on this sum as stipulated in GCC Clause 15.3, requires approval of such invoice or supporting documents, or specifies the breach and requires the procuring entity to remedy the same, as the case may be. If the procuring entity fails to pay such sum together with such interest, fails to approve such invoice or supporting documents or give its reasons for withholding such approval, fails to remedy the breach or take steps to remedy the breach within fourteen (14) days after receipt of the supplier’s notice; or  (b) the supplier is unable to carry out any of its obligations under the contract for any reason attributable to the procuring entity, including but not limited to the procuring entity’s failure to provide possession of or access to the site or other areas or failure to obtain any governmental permit necessary for the execution and/or completion of the goods;  then the supplier may give a notice to the procuring entity of such events, and if the procuring entity has failed to pay the outstanding sum, to approve the invoice or supporting documents, to give its reasons for withholding such approval, or to remedy the breach within twenty-eight (28) days of such notice, or if the supplier is still unable to carry out any of its obligations under the contract for any reason attributable to the procuring entity within twenty-eight (28) days of the said notice, the supplier may by a further notice to the procuring entity referring to this GCC Clause 43.3.1, forthwith terminate the contract.  43.3.2 The supplier may terminate the contract immediately by giving a notice to the procuring entity to that effect, referring to this GCC Clause 43.3.2, if the procuring entity becomes bankrupt or insolvent, has a receiving order issued against it, compounds with its creditors, or, being a corporation, if a resolution is passed or order is made for its winding up (other than a voluntary liquidation for the purposes of amalgamation or reconstruction), a receiver is appointed over any part of its undertaking or assets, or if the procuring entity takes or suffers any other analogous action in consequence of debt.  43.3.3 If the contract is terminated under GCC Clauses 43.3.1 or 43.3.2, then the supplier shall immediately:  (a) cease all further work, except for such work as may be necessary for the purpose of protecting that part of the goods already executed, or any work required to leave the site in a clean and safe condition;  (b) terminate all subcontracts, except those to be assigned to the procuring entity pursuant to Clause 43.3.3 (d) (ii);  (c) remove all supplier’s Equipment from the site and repatriate the supplier’s and its Subcontractor’s personnel from the site.  (d) In addition, the supplier, subject to the payment specified in GCC Clause 43.3.4, shall:  (i) deliver to the procuring entity the parts of the goods executed by the supplier up to the date of termination;  (ii) to the extent legally possible, assign to the procuring entity all right, title, and benefit of the supplier to the goods, or major components, as of the date of termination, and, as may be required by the procuring entity, in any subcontracts concluded between the supplier and its Subcontractors;  (iii) to the extent legally possible, deliver to the procuring entity all drawings, specifications, and other documents prepared by the supplier or its Subcontractors as of the date of termination in connection with the goods.  43.3.4 If the contract is terminated under GCC Clauses 43.3.1 or 43.3.2, the procuring entity shall pay to the supplier all payments specified in GCC Clause 43.1.3 and reasonable compensation for all loss, except for loss of profit, or damage sustained by the supplier arising out of, in connection with, or in consequence of such termination.  43.3.5 Termination by the supplier pursuant to this GCC Clause 43.3 is without prejudice to any other rights or remedies of the supplier that may be exercised in lieu of or in addition to rights conferred by GCC Clause 43.3.  43.4 In this GCC Clause 43, the expression “portion of the goods executed” shall include all work executed, services provided, and all goods acquired (or subject to a legally binding obligation to purchase) by the supplier and used or intended to be used for the purpose of the goods, up to and including the date of termination.  43.5 In this GCC Clause 43, in calculating any monies due from the procuring entity to the supplier, account shall be taken of any sum previously paid by the procuring entity to the supplier under the contract, including any advance payment paid **pursuant to the SCC.** |
| 44. Assignment   * 1. Neither the procuring entity nor the supplier shall, without the express prior written consent of the other, assign to any third party the contract or any part thereof, or any right, benefit, obligation, or interest therein or thereunder, except that the supplier shall be entitled to assign either absolutely or by way of charge any monies due and payable to it or that may become due and payable to it under the contract. |
| |  | | --- | | 45. Settlement of Disputes  45.1 Adjudication  45.1.1 If any dispute of any kind whatsoever shall arise between the procuring entity and the supplier in connection with or arising out of the contract, including without prejudice to the generality of the foregoing, any question regarding its existence, validity, or termination, or the operation of the goods (whether during the progress of implementation or after its achieving Operational Acceptance and whether before or after the termination, abandonment, or breach of the contract), the parties shall seek to resolve any such dispute by mutual consultation. If the parties fail to resolve such a dispute by mutual consultation within fourteen (14) days after one party has notified the other in writing of the dispute, then, if the Contract Agreement in Appendix 2 includes and names an Adjudicator, the dispute shall, within another fourteen (14) days, be referred in writing by either party to the Adjudicator, with a copy to the other party. If there is no Adjudicator specified in the Contract Agreement, the mutual consultation period stated above shall last twenty-eight (28) days (instead of fourteen), upon expiry of which either party may move to the notification of arbitration pursuant to GCC Clause 45.2.1. | | 45.1.2 The Adjudicator shall give his or her decision in writing to both parties within twenty-eight (28) days of the dispute being referred to the Adjudicator. If the Adjudicator has done so, and no notice of intention to commence arbitration has been given by either the procuring entity or the supplier within fifty-six (56) days of such reference, the decision shall become final and binding upon the procuring entity and the supplier. Any decision that has become final and binding shall be implemented by the parties forthwith.  45.1.3 The Adjudicator shall be paid an hourly fee at the rate specified in the Contract Agreement plus reasonable expenditures incurred in the execution of duties as Adjudicator, and these costs shall be divided equally between the procuring entity and the supplier.  45.1.4 Should the Adjudicator resign or die, or should the procuring entity and the supplier agree that the Adjudicator is not fulfilling his or her functions in accordance with the provisions of the contract, a new Adjudicator shall be jointly appointed by the procuring entity and the supplier. Failing agreement between the two within twenty-eight (28) days, the new Adjudicator shall be appointed at the request of either party by the Appointing Authority **specified in the SCC,** or, if no Appointing Authority is **specified in SCC,** the contract shall, from this point onward and until the parties may otherwise agree on an Adjudicator or an Appointing Authority, be implemented as if there is no Adjudicator.  45.2 Arbitration  45.2.1 If  (a) the procuring entity or the supplier is dissatisfied with the Adjudicator’s decision and acts before this decision has become final and binding pursuant to GCC Clause 45.1.2, or  (b) the Adjudicator fails to give a decision within the allotted time from referral of the dispute pursuant to GCC Clause 45.1.2, and the procuring entity or the supplier acts within the following fourteen (14) days, or  (c) in the absence of an Adjudicator from the Contract Agreement, the mutual consultation pursuant to GCC Clause 45.1.1 expires without resolution of the dispute and the procuring entity or the supplier acts within the following fourteen (14) days,  then either the procuring entity or the supplier may act to give notice to the other party, with a copy for information to the Adjudicator in case an Adjudicator had been involved, of its intention to commence arbitration, as provided below, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.  45.2.2 Any dispute in respect of which a notice of intention to commence arbitration has been given, in accordance with GCC Clause 45.2.1, shall be finally settled by arbitration. Arbitration may be commenced prior to or after Installation of the goods.  45.2.3 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC.**  45.3 Notwithstanding any reference to the Adjudicator or arbitration in this clause,  (a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree;  (b) the procuring entity shall pay the supplier any monies due the supplier. | |
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# Section VII - Special Conditions of Contract

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**Special Conditions of contract**

The following Special Conditions of contract (SCC) shall supplement or amend the General Conditions of contract (GCC). Whenever there is a conflict, the provisions of the SCC shall prevail over those in the General Conditions of contract. For the purposes of clarity, any referenced GCC clause numbers are indicated in the left column of the SCC.

1. Definitions (GCC Clause 1)

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| --- | --- |
| GCC 1.1 (b) (i) | The procuring entity is: [ insert: complete legal name of the procuring entity ]. |
| GCC 1.1 (b) (ii) | The Project Manager is: [ insert: name and/or the official title of Project Manager]. GCC |
| GCC 1.1 (e) (x) | There are no Special Conditions associated with GCC 1.1 (e) (x).  [Note: ***The GCC default specifies the contract Period as when all the supplier’s obligations are completed. If there is a reason to set a hard-and-fast calendar date for the contract Period to end, then specify here]*** |
| GCC 1.1 (e) (xiii) | The Post-Warranty services Period is [insert: number of months] starting with the completion of the Warranty Period. |

1. Notices (GCC Clause 8)

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| GCC 8.3 | Address of the Project Manager: [ as appropriate, insert: personal delivery, postal, facsimile, email, and/or EDI addresses.]  Fallback address of the procuring entity: [ as appropriate, insert: personal delivery, postal, facsimile, email, and/or EDI addresses.]  ***[Note:*** *If the procuring entity wishes to use Electronic Data Interchange (EDI) to communicate with the supplier, it should specify the standards and protocols (for example ANSI X12 or ISO EDIFACT). The details may then be revised at contract finalization. If so, add the following text.]*  For Electronic Data Interchange (EDI) the procuring entity and supplier will use the following standards, protocols, addresses, and procedures: [ insert: standards, protocols, addresses; also describe: any relevant procedures] |

1. Scope of Supply (GCC Clause 10)

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| GCC 10.3 | The supplier’s obligations under the contract will include the following recurrent cost items, as identified in the Recurrent Cost tables in the supplier’s bid:  [specify: the recurrent cost items/services that are included in the contract; also provide cross reference to the place in the Technical Requirements where each item/service is specified in detail.]  ***[Note****: The requirements in terms of recurrent cost items should be defined here, reflected in the Recurrent Cost Table for the Warranty period, and elaborated in the Technical Requirements. See also notes to SCC Clause 29.4 regarding services that are not typically included in commercial warranties.*  *If the procuring entity expects that wear and tear on the goods components will necessitate routine replacement of such components, and if procuring entity technical staff will perform these repair and replacement tasks, the procuring entity may wish to consider adding the following clause to the SCC that obligates the supplier to stock and/or provide certain spare parts.]*  The supplier agrees to supply spare parts required for the operation and maintenance of the goods, as stated below, for [ insert: number of years]years beginning with Operational Acceptance. Moreover, the price of such spare parts shall be those specified in the spare parts price schedule submitted by the Suppler as part of its bid. These prices shall include the purchase price for such spare parts and other costs and expenses (including the supplier’s fees) relating to the supply of spare parts.  [list the spare parts needs, or reference the line items in the Spare Parts Schedule of Requirements in the supplier’s bid, if the supplier is the source of the identity of the spares, i.e., reflecting its own understanding of its own technologies.]  **[*Note:*** *The need to ensure the availability of spare parts sources, above and beyond those the supplier would routinely and implicitly need to perform under its defect liability and/or maintenance responsibilities, generally is not a major issue for the goods available in the market today. The goods are likely to become obsolete long before it begins to develop physical defects.]* |

1. Time for Commencement and Operational Acceptance (GCC Clause 11)

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| GCC 11.1 | The supplier shall commence work on the goods within: [ insert: number ***of*** ***days***] days from the Effective Date of the contract. |

1. Supplier’s Responsibilities (GCC Clause 12)

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| GCC 12.9 | [Delete if not applicable] Insert any sustainable procurement contractual provisions, if applicable.  The following sustainable procurement contractual provisions apply: |

1. Contract Price (GCC Clause 14)

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| GCC 14.2 (b) | Adjustments to the contract Price shall be as follows: [ state: “not applicable” or specify: the items, adjustment formula or formulas, and the relevant price indices].  **[*Note:*** *Price adjustment is not generally associated with the goods procurements. Price adjustment may be appropriate when: (i) performance of the contract is expected to last more than eighteen months; (ii) the cost of an important input, such as labor, is subject to inflation (or deflation); and (iii) meaningful price indices are readily available and well accepted. Thus, for example, if the contract provides a substantial number of recurrent cost items following Operational Acceptance, would the inclusion of an SCC to permit adjustment be appropriate. In such cases, adjustment should be limited to those items only and use appropriate indices that accurately mirror the relevant price trends.]* |

1. Terms of Payment (GCC Clause 15)

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| GCC 15.1 | Subject to the provisions of GCC Clause 15 (Terms of Payment), the procuring entity shall pay the contract Price to the supplier according to the categories and in the manner specified below. Only the categories Advance Payment and Complete Goods Integration relate to the entire contract Price. In other payment categories, the term "total contract Price" means the total cost of the goods or services under the specific payment category. Within each such category, the contract Implementation Schedule may trigger pro-rata payments for the portion of the total contract Price for the category corresponding to the goods or services actually Delivered, Installed, or Operationally Accepted, at unit prices and in the currencies specified in the Schedule of Requirements of the Contract Agreement.  (a) Advance Payment  ten percent (10%) of the entire contract Price, exclusive of all Recurrent Costs, shall be paid against receipt of a claim accompanied by the Advance Payment Security specified in GCC Clause 16.2.  ***[Note:*** *The advance payment may be higher than 10% in cases where supplier's mobilization costs (i.e., costs between contract effectiveness and the first scheduled contract payment) are likely to be much larger than the advance payment, resulting in substantial negative cash flow for the supplier. This happens primarily in projects where the supplier must acquire expensive highly-specialized equipment to customize and configure a solution system prior to the first scheduled payment milestone. In these cases, the entire schedule of payments below obviously needs to be adjusted accordingly.]*  (b) Goods and Materials with the exception of Custom Goods and Custom Materials:  sixty percent (60%) of the total or pro-rata contract Price for this category against Delivery  ten percent (10%) of the same price against Installation  ten percent (10%) of the same price against Operational Acceptance.  (c) Custom Goods and Custom Materials:  sixty percent (60%) of the total or pro-rata contract Price for this category against Installation  twenty percent (20%) of the same price against Operational Acceptance.  ***[Note:*** *Large custom development or integration contracts (e.g., those taking longer than six months from contract Effectiveness to Operational Acceptance of the goods) are usually paid in increments against procuring entity's acceptance of major intermediate deliverables defined in the implementation schedule as key milestones (e.g. a sequence of major system design documents, such as: requirements specifications, design document, development of a prototype for a major subsystem, delivery of a pilot implementation of the goods etc. ). In those cases, the above payment terms should be modified accordingly and refer to the milestones in the Implementation Schedule. The payment terms should allow the supplier an adequate cash flow vis-à-vis the steps need to achieve an operational package.]*  (d) services other than Training:  eighty percent (80%) of the pro-rata Contract Price for services performed will be paid monthly in arrears, on submission and procuring entity’s approval of invoices:  ***[Note:*** *Some contracts may involve considerable “services other than Training” (and services other than customization). In these cases, payment may be keyed to acceptance of intermediate deliverables or completion of service delivery phases defined in the project implementation schedule, rather than merely to the passage of time, as illustrated. In designing this type of payment terms, the procuring entity has an obligation to balance and ensure consistency between its own interest to pay only against value received, the supplier's need for a reasonable cash flow, the design of the project implementation schedule, the specification of service milestones and even the process for acceptance testing of intermediate deliverables (when milestones completion would be subject to such testing).]*  (e) Training  thirty percent (30%) of the total contract Price for training services at the start of the full training program  fifty percent (50%) of the pro-rata contract Price for training services performed will be paid monthly in arrears, on submission and approval of appropriate invoices.  (f) Complete Goods Integration  ten percent (10%) of the entire contract Price, exclusive of all Recurrent Costs, as final payment against Operational Acceptance of the Goods as an integrated whole.  (g) Recurrent Costs  one hundred percent (100%) of the price of the services actually delivered will be paid quarterly in arrears, on submission and procuring entity’s approval of invoices.  ***[Note:*** *If a separate Operational Acceptance for the Goods as an integrated whole is not required, increase by 10% points the final payment percentages of all other goods and services above.]* |
| GCC 15.3 | The procuring entity shall pay to the supplier interest on the delayed payments at a rate of: [ insert: number (X) followed by “percent” or “%”] per annum. |
| GCC 15.4 | The supplier will invoice the procuring entity in the currency used in the Contract Agreement and the Schedule of Requirements it refers to, for goods and services supplied locally, and the conversion between this currency and JMD for payment purposes - in case the two currencies are different - will be made as of the actual payment date using the exchange rate found in Bank of Jamaica*].* |

1. Securities (GCC Clause 16)

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| GCC 16.3.1 | The Performance Security shall be denominated in [ insert currency]for an amount equal to [ insert: number]percent of the Contract Price, excluding any Recurrent Costs.  *[Note: The general rule is that the Performance Security is denominated in the currency or currencies of the contract or in a freely convertible currency acceptable to the procuring entity. It should be set as no more than ten (10) percent of the Contract Price, including Recurrent Costs during the Warranty Period. Provision of the Performance Security increases the transaction costs incurred by the successful bidder, which it can recover only by increasing its price. Therefore, for a simple system, Performance Security in an amount of only six (6) percent of the contract Price would provide adequate protection while for a moderately complex system, eight (8) percent should be sufficient.]* |
| GCC 16.3.4 | During the Warranty Period (i.e., after Operational Acceptance of the Goods), the Performance Security shall be reduced to [ insert: number]percent of the Contract Price, excluding any Recurrent Costs.  *[Note: An appropriate amount for the Performance Security for a (three-year) Warranty Period would be between one (1) and two and a half (2.5) percent of the contract Price including Recurrent Costs for the Warranty period..]* |

1. Copyright (GCC Clause 18)

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| GCC 18.3 | There are no Special Conditions of contract applicable to GCC Clause 18.3  *[Note: The procuring entity may choose to specify the conditions under which contractual rights would be conveyed to any procuring entity of the concern, or any successor entities following a reorganization or other procedures. .]* |
| GCC 18.4 | There are no Special Conditions of contract applicable to GCC Clause 18.4  ***[Note:*** *There is a broad spectrum of strategies that the procuring entity can adopt regarding Intellectual Property Rights in Custom Goods (and in Custom Materials). One extreme case is that the procuring entity retains all Intellectual Property Rights and tightly restricts what the supplier can do with the Custom Goods and information related to it. This approach may be appropriate when the procuring entity has highly sensitive procedures embedded in the Custom Goods or commercial competitive concerns regarding wider use of the designs, or information, or where the procuring entity considers that it is contributing valuable know-how to the development of the Custom Goods and wishes to share in future profits with the supplier that derives from exploitation of that know-how. The other extreme case is where the procuring entity retains no Intellectual Property Rights in the Custom Goods and only licenses its use from the supplier. This approach is most appropriate when the supplier wants to take advantage of the potential cost reduction in allowing the supplier to commercialize the Custom Goods (rather than sharing in future profits) and where the procuring entity has no proprietary or commercial concerns regarding its reuse.*  *A wide variety of intermediate arrangements can be appropriate, depending on the circumstances. These would entail variations of what the procuring entity is entitled to do with the designs, and related information (and under what conditions). These rights and obligations include the following: (i) duplicating the different equipment.; (ii) transferring any licenses or sublicensing the software for other entities to use, modify, develop, commercialize, etc.; (iii) sharing proprietary information regarding the Custom Goods with various parties. The procuring entity’s obligations and rights (and the conditions under which those rights and obligations apply) can vary substantially also.*  *The supplier’s rights in relation to the Custom Goods may:*   * *Be limited to use in order to support the procuring entity; or* * *Extend to commercial exploitation by re-licensing to third-party customers.*   *If the supplier’s rights extend to commercial exploitation, they may be limited as follows:*   * *There may be an interim period, designed to protect the procuring entity’s competitive edge, during which the supplier is not permitted to exploit commercially; and/or* * *The supplier may be prohibited from licensing the Custom Goods to certain categories of customer (for example, direct competitors of the procuring entity) or in certain territories (for example, Jamaica), either for a limited period or indefinitely; and/or* * *The supplier may be required to pay royalties to the procuring entity when it licenses third parties to use the Custom Goods.*   *The first two of these categories of limitation are intended to protect the procuring entity’s competitive edge. The third is intended to allow the procuring entity to share in future profits made by the supplier through exploitation of the Custom Goods. Royalty arrangements will have to be backed up by obligations to report to the procuring entity regarding future sales of products to which royalties apply and audit rights so that the procuring entity can check that the supplier’s reports are accurate. Clearly, if royalty arrangements are put in place, the value of the Custom Goods to the supplier is reduced, so the procuring entity may not benefit from an up-front cost saving.*  *The procuring entity’s rights in relation to the Custom Goods may also be restricted to “user” rights or extended to commercial exploitation. If the procuring entity is to be treated as a mere user of the Custom Goods, it might accept restrictions on use similar to those imposed in relation to the Standard Goods (indeed, the default position in the GCC is that the Custom Goods will be licensed to the procuring entity on exactly the same terms as the Standard Goods if the Intellectual Property Rights in the Custom Goods does not vest in the procuring entity).*  *If the procuring entity is to be permitted to exploit the Custom Goods commercially, its exploitation rights may be limited in similar ways to the ways in which the procuring entity’s own usage rights to the Custom Goods may be limited.*  *It may be appropriate to apply different arrangements to various elements of the Custom Goods, according to their commercial sensitivity and potential for exploitation and the degree of competitive advantage that they afford to the procuring entity.*  *The various possible arrangements can be achieved by a variety of contractual mechanisms. Ownership of Intellectual Property Rights in the Custom Goods may vest the supplier or the procuring entity, with the owner of those rights granting an appropriate license to the other party. This license may be subject to various degrees of exclusivity, depending on the desired commercial outcome (for example, the supplier may own the Intellectual Property Rights in the Custom Goods by granting to the procuring entity a license that is exclusive, in relation to exploitation in the procuring entity’s Country, for two years).*  *If an exclusive license is to be granted, competition law issues will need to be considered in some jurisdictions.*  *Each is sufficiently different as to render virtually all sample text inappropriate in numerous cases. Accordingly, the procuring entity of Custom Goods will, in most instances, require the services of an appropriately skilled lawyer to draft SCC for the rights and obligations regarding Custom Goods (more particularly, the variety of rights and obligations that potentially apply to different items of Custom Goods).]* |
| GCC 18.5 | There are no Special Conditions of Contract applicable to GCC Clause 18.5  ***[Note:*** *Special software escrow arrangements are generally needed in relation to contracts for the supply of any software, particularly Application Software, where there is concern about the ability of the supplier to provide ongoing support throughout the life of the goods. The protection provided by an escrow arrangement, however, should be weighed against the costs of administering it. The actual language of the escrow contract will vary depending on the laws of the country in which the escrow deposit is to be made (which may be Jamaica or another country with a suitable legal regime) and the escrow agent selected (escrow agents generally have their own standard form contracts). Provisions may cover:*  *(i) the supplier’s obligations to deliver the Source Code to the escrow agent and make replacement deposits to ensure that the Source Code is up to date;*  *(ii) the supplier’s warranties that the Source Code is at all times capable of being used to generate the latest version of the executable code to the relevant Software in use by the procuring entity and suitable to enable the procuring entity to support and develop the Software;*  *(iii) the escrow agent’s obligations to keep the Source Code secure and confidential;*  *(iv) the escrow agent’s obligations in relation to verification of the Source Code (to ensure that it is Source Code and that it is capable of generating the executable code);*  *(v) the obligations of the supplier and the procuring entity in relation to payment of the escrow agent’s fee;*  *(vi) the escrow agent’s right and obligation to release the Source Code to the procuring entity in certain specified “release events” (e.g., bankruptcy or insolvency of the supplier or the supplier’s failure to make deposits or to support the Software);*  *(vii) limitations and exclusions of the escrow agent’s liability;*  *(viii) the circumstances in which the escrow arrangement will terminate, and what will happen to the deposited Source Code on termination; and*  *(ix) confidentiality undertakings to be given by the procuring entity on release of the Source Code.]* |

1. Confidential Information (GCC Clause 19)

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| GCC 19.1 | There are no Special Conditions of contract applicable to GCC Clause 19.1  **[*Note:*** *The procuring entity may wish to give members of its business group or related agencies, for example, access to certain specific types of technical and / or financial information it obtains or develops with respect to the supplier and its goods. The SCC covering such an exemption should define the individuals covered and generally provide that the procuring entity will ensure that such parties are aware of and will abide by the procuring entity’s obligations under GCC Clause 19 as if such party were a party to the contract in place of the procuring entity.*  if necessary and appropriate, specify: persons, topics, and conditions for which the confidentiality clause does not apply.] |

1. Representatives (GCC Clause 20)

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| --- | --- |
| GCC 20.1 | There are no Special Conditions of contract applicable to GCC Clause 20.1  ***[Note:*** *If appropriate specify additional powers or limitations.]*  The procuring entity’s Project Manager shall have the following additional powers and / or limitations to his or her authority to represent the procuring entity in matters relating to the contract [ state necessary and appropriate clauses]. |
| GCC 20.2.2 | There are no Special Conditions of contract applicable to GCC Clause 20.2.2  ***[Note:*** *If appropriate specify additional powers or limitations.]*  The supplier’s Representative shall have the following additional powers and / or limitations to his or her authority to represent the supplier in matters relating to the contract [ state necessary and appropriate clauses].  ***[Note:*** *Any additional powers or limitations of the supplier’s Representative will, of necessity, be subject to discussions at contract finalization and the SCC amended accordingly.]* |

1. Project Plan (GCC Clause 21)

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| GCC 21.1 | Chapters in the Project Plan shall address the following subject**:**  (a) Project Organization and Management Sub-Plan, including management authorities, responsibilities, and contacts, as well as task, time and resource-bound schedules (in GANTT format);  (b) Implementation Sub-Plan;  (c) Training Sub-Plan;  (d) Testing and Quality Assurance Sub-Plan;  (e) Warranty Defect Repair and Technical Support Service Sub-Plan  Further details regarding the required contents of each of the above chapters are contained in the Technical Requirements, (insert: reference). |
| GCC 21.6 | The supplier shall submit to the procuring entity:  (i) monthly inspection and quality assurance reports  (ii) monthly training participants test results  (iii) monthly log of service calls and problem resolutions |

1. Design and Engineering (GCC Clause 23)

|  |  |
| --- | --- |
| GCC 23.3.1 | There are no Special Conditions of contract applicable to GCC Clause 23.3.1.  ***[Note:*** *If necessary and appropriate, specify the Controlling Technical Documents (i.e., document that must be approved by the procuring entity’s Project Manager before any relevant downstream work can be undertaken by the supplier).]*  *[The supplier shall prepare and furnish to the Project Manager the following documents for which the supplier must obtain the Project Manager’s approval before proceeding with work on the goods covered by the documents.* [ state “none” or specify, for example:  (\*) detailed site surveys;  (\*) final configurations;  (\*) etc.] |

1. Product Upgrades (GCC Clause 25)

|  |  |
| --- | --- |
| GCC 25.4 | There are no Special Conditions of contract applicable to GCC Clause 25.4.  *[Note: If applicable, mandating that all new versions, releases, and updates of the goods will be passed on for free during the Warranty Period is a comprehensive requirement, the benefits of which must be balanced against the perceived costs in the mind of the successful bidder at the time of bid submission. To require the supplier to provide for free only new releases and updates, but agreeing that it would be reimbursed for the supply of completely new versions might be more cost-effective. Another approach may be to shorten the time period during which updates, etc., would have to be supplied for free.]* |

1. Inspections and Tests (GCC Clause 27)

|  |  |
| --- | --- |
| GCC 27 | There are no Special Conditions of contract applicable to GCC Clause 27.  *[Note: The procuring entity may wish to consider employing qualified inspectors to inspect and certify the goods and Materials prior to shipment. This can minimize the number of cases where the procuring entity receives shipped goods that do not conform to the Technical Requirements and shorten the repair or replacement time.]* |

1. Commissioning and Operational Acceptance (GCC Clause 29)

|  |  |
| --- | --- |
| GCC 29.2.1 | There are no Special Conditions of contract applicable to GCC Clause 29.2.1.  *[Note: Few aspects of goods procurement are more critical to the successful implementation of the goods than the specification of Operational Acceptance Tests. It is imperative that the procuring entity prepare the specification for these tests as carefully as the overall specification of the goods themselves. The description should be sufficiently comprehensive, unambiguous, and verifiable to result in proper operation of the goods with minimal confusion or controversy between the procuring entity and its management, the supplier, and any users.*  *In addition, where the contract covers the Installation and acceptance testing of a number of the major components, the nature of the acceptance tests required for each major component, and for the final tests to be carried out on the goods once all the major components have been completed, needs to be clearly specified here and/or in the Technical Requirements and which party bears responsibility for correcting any defects discovered during the final tests of the goods needs to be identified.]* |

1. Operational Acceptance Time Guarantee (GCC Clause 30)

|  |  |
| --- | --- |
| GCC 30.2 | There are no Special Conditions of contract applicable to GCC Clause 30.2.  ***[Note:*** *Typical percentages are, respectively, one half of one percent (0.5%) per week and ten percent (10%) of the total. In some instances, the procuring entity may wish to consider specifying liquidated damages on a daily basis. If so, specify this in the SCC].* |
| GCC 30.3 | There are no Special Conditions of contract applicable to GCC Clause 30.3.  *[Note: Establishing more milestones for liquidated damages may provide a somewhat greater degree of control and assurances regarding the pace of the implementation of the goods. However, this will come at a price of increased complexity of contract management and increased perceptions of financial risks on the part of bidders. This most likely will lead to higher bid prices. In most cases, Operational Acceptance should be the most appropriate financial control for ensuring the timeliness of implementation, since it captures the impact of earlier delays and is, in the final analysis, the milestone that truly matters. Whatever milestones are selected, it is critical that the Implementation Schedule precisely specify what major components are covered and when the milestone is set. These, of course, can be refined and revised through the Agreed Project Plan.]* |

1. Defect Liability (GCC Clause 31)

|  |  |
| --- | --- |
| GCC 31.1 | There are no Special Conditions of contract applicable to GCC Clause 31.1.  *[Note: The procuring entity may wish to refine or to limit the supplier’s warranty obligations. Properly done, this can reduce bidder’s perceptions of financial risk and help lower bid prices. However, the procuring entity should balance the potential savings against the risks to reliable and effective operation of the goods and the related costs to the procuring entity. These tradeoffs are very specific to the type of the goods and its uses. These tradeoffs are also changing very rapidly with technological development. The procuring entity may wish to consult experts in the relevant areas for an up-to-date assessment of the risks and the most appropriate text to express any such exceptions and limitations.]* |
| GCC 31.4 | There are no Special Conditions of Contract applicable to GCC Clause 31.4.  ***[Note:*** *When defining the Warranty period, the procuring entity should be careful to recognize that services such as resident engineer support, new releases and end-user help desk support are not typically included in commercial warranties and should be priced separately in the Recurrent Cost Table].* |
| GCC 31.10 | There are no Special Conditions of Contract applicable to GCC Clause 31.10  **[*Note:*** *Typically, the procuring entity should develop a set of response times for different degrees of seriousness of the defects. The most appropriate and economical set of response times are highly dependent on the specific goods, its use, and the relevant conditions in Jamaica.*  *The GCC specifies that the supplier must commence work on warranty defects within a maximum of two weeks; else the procuring entity may contract-in such services at the supplier’s expense. The procuring entity may wish to shorten or lengthen this period in the SCC. The time specified must strike a reasonable balance between the response time the typical qualified supplier can physically achieve and the importance of maintaining continued operation. If too short a time period is specified, suppliers will need to protect themselves by adding a contingency to their bid prices.]* |

1. Functional Guarantees (GCC Clause 32)

|  |  |
| --- | --- |
| GCC 32 | There are no Special Conditions of contract applicable to GCC Clause 32.  *[Note: In the event that goods would have to conform to other calendar system(s), here would be the place to specify related requirements in addition to, or in variation of, the requirements in GCC clause 32.2.]* |

1. Insurances (GCC Clause 39)

|  |  |
| --- | --- |
| GCC 39.1 (c) | The supplier shall obtain Third-Party Liability Insurance in the amount of [ insert: monetary value] with deductible limits of no more than [ insert: monetary value]. The insured Parties shall be [ list insured parties]. The Insurance shall cover the period from [ insert: beginning date, relative to the Effective Date of the contract]until [ insert: expiration date, relative to the Effective Date of the contract or its completion ]. |
| GC 39.1 (e) | There are no Special Conditions of contract applicable to GCC Clause 39.1 (e).  [Note: The statutory requirements for various insurances should be reviewed with the procuring entity’s legal department.  *For example:*  *The supplier shall obtain Worker’s Compensation Insurance in accordance with the statutory requirements of Jamaica. Specifically: [ insert****: requirements****]. The Insurance shall cover the period from [ insert:* ***beginning date, relative to the Effective Date of the contract****] until [ insert:* ***expiration date, relative to the Effective Date of the contract or its completion****].*  *The supplier shall obtain Employer’s Liability Insurance in accordance with the statutory requirements of Jamaica*.  *Specifically: [* insert: requirements]. *The Insurance shall cover the period from* [ insert: beginning date, relative to the Effective Date of the contract]*until* [ insert: expiration date, relative to the Effective Date of contract or its completion ].] |

1. Changes to the goods (GCC Clause 41)

|  |  |
| --- | --- |
| GCC 41.4 | Value Engineering  If the value engineering bid is approved by the procuring entity the amount to be paid to the supplier shall be \_\_\_% (insert appropriate percentage. The percentage is normally up to 50%) of the reduction in the Contract Price. |

1. Settlement of Disputes (GCC Clause 44)

|  |  |
| --- | --- |
| GCC 44.1.4 | The Appointing Authority for the Adjudicator is: [ insert: the name of an impartial international technical organization in the information technology sector, or, if no Adjudicator is used in this Contract Agreement or no organization has been identified and agreed to serve as Appointing Authority for the Adjudicator, state “not applicable.”]. |
| GCC 44.2.3 | **Dispute Settlement**  In the event of the failure of the mediation between parties, the Adjudicator will record those verifiable facts that the parties have agreed. Subsequently the case will be handled by arbitration. The parties agree to accept the award of the Arbitrator as binding and irrevocable with in the provisions of the Arbitration Act of Jamaica. The Adjudicator’s role in the dispute resolution process shall cease upon appointment of the Arbitrator. During the dispute settlement process, the supplier shall continue to perform the work in accordance with this contract. Failure to do so shall be considered a breach of contract.  **Arbitration**  The seat of the arbitration shall be Jamaica and disputes shall be settled in accordance with the Arbitration Act of Jamaica. Rules of procedure to be adopted shall be those as published by the United Nations Commission on International Trade Law (UNCITRAL) *Arbitration Rules of 1976.*  For contracts with foreign suppliers, 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 United Nations Commission on International Trade Law (UNCITRAL) Arbitration Rules as at present in force. |

|  |
| --- |
| Section VIII. Contract Forms |

**Table of Forms**

1. Letter of Acceptance

[2. Contract Agreement](#_Toc73333192)

[3. Performance Security](#_Toc73333193)

[4. Bank Guarantee for Advance Payment](#_Toc73333194)

* + 1. **Letter of Acceptance**

*[letterhead paper of the procuring entity]*

*[date]*

To: *[name and address of the supplier]*

Subject: ***Notification of Award Contract No.***  *[insert number]*

This is to notify you that your bid dated *[insert date]* for execution of the *[insert name of the contract and identification number, as given in the* ***BDS****]* for the Accepted Contract Amount of *[insert* *amount in words]* (*[insert amount in numbers]*), as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by [insert name of procuring entity].

You are requested to furnish the performance security within 28 days in accordance with the Conditions of Contract, using for that purpose the of the performance security Form included in Section X, Contract Forms, of the bidding document.

Authorized Signature:

Name and Title of Signatory:

Name of procuring entity:

**Attachment: Contract Agreement**

* + 1. **Contract Agreement**

Contract Agreement

THIS CONTRACT AGREEMENT is made

the [ insert: ordinal] day of [ insert: month], [ insert: year].

BETWEEN

(1) [ insert: Name of procuring entity], a [ insert: description of type of legal entity, for example, an agency of the Ministry of . . .] of the Government of Jamaica, or corporation incorporated under the laws of Jamaica and having its principal place of business at [ insert: address of procuring entity] (hereinafter called “the procuring entity”), 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 procuring entity desires to engage the supplier to supply, install, achieve Operational Acceptance of, and support the following goods [ insert: brief description of the goods](“the goods”), and the supplier has agreed to such engagement upon and subject to the terms and conditions appearing below in this Contract Agreement.

NOW IT IS HEREBY AGREED as follows:

|  |  |
| --- | --- |
| Article 1.  Contract Documents | 1.1 Contract Documents (Reference GCC Clause 1.1 (a) (ii))  The following documents shall constitute the contract between the procuring entity and the supplier, and each shall be read and construed as an integral part of the contract: |
|  | (a) This Contract Agreement and the Appendices attached to the Contract Agreement  (b) Special Conditions of contract  (c) General Conditions of contract  (d) Technical Requirements (including Implementation Schedule)  (e) The supplier’s bid and original Schedule of Requirements  (f) [ Add here: any other documents] |
|  | 1.2 Order of Precedence (Reference GCC Clause 2)  In the event of any ambiguity or conflict between the contract Documents listed above, the order of precedence shall be the order in which the contract Documents are listed in Article 1.1 (contract Documents) above, provided that Appendix 7 shall prevail over all provisions of the Contract Agreement and the other Appendices attached to the Contract Agreement and all the other contract Documents listed in Article 1.1 above.  1.3 Definitions (Reference GCC Clause 1)  Capitalized words and phrases used in this Contract Agreement shall have the same meanings as are ascribed to them in the General Conditions of contract. |
| Article 2.   Contract Price and Terms of Payment | 2.1 Contract Price (Reference GCC Clause 1.1(a)(viii) and GCC Clause 14)  The procuring entity hereby agrees to pay to the supplier the contract Price in consideration of the performance by the supplier of its obligations under the contract. The contract Price shall be the aggregate of: [ insert: amount of foreign currency A in words ],[insert: amount in figures ],plus [ insert: amount of foreign currency B in words ],[insert: amount in figures ], plus [ insert: amount of foreign currency C in words ], [insert: amount in figures ], [ insert: amount of local currency in words ], [ insert: amount in figures ], as specified in the Grand Summary Schedule of Requirements.  The contract Price shall be understood to reflect the terms and conditions used in the specification of prices in the detailed price schedules, including the terms and conditions of the associated Incoterms, and the taxes, duties and related levies if and as identified. |
| Article 3.   Effective Date for Determining Time for Operational Acceptance | 3.1 Effective Date (Reference GCC Clause 1.1 (e) (ix))  The time allowed for supply, installation, and achieving Operational Acceptance of the Goods shall be determined from the date when all of the following conditions have been fulfilled:  (a) This Contract Agreement has been duly executed for and on behalf of the procuring entity and the supplier;  (b) The supplier has submitted to the procuring entity the performance security and the advance payment security, in accordance with GCC Clause 16.2 and GCC Clause 16.3; |
|  | (c) The procuring entity has paid the supplier the advance payment, in accordance with GCC Clause 15;  Each party shall use its best efforts to fulfill the above conditions for which it is responsible as soon as practicable.  3.2 If the conditions listed under 3.1 are not fulfilled within two (2) months from the date of this Contract Agreement because of reasons not attributable to the supplier, the parties shall discuss and agree on an equitable adjustment to the contract Price and the Time for Achieving Operational Acceptance and/or other relevant conditions of the contract. |
| Article 4.   Appendixes | 4.1 The Appendixes listed below shall be deemed to form an integral part of this Contract Agreement. |
|  | 4.2 Reference in the contract to any Appendix shall mean the Appendixes listed below and attached to this Contract Agreement, and the contract shall be read and construed accordingly. |

APPENDIXES

Appendix 1. Supplier’s Representative

Appendix 2. Adjudicator *[if there is no Adjudicator, state* ***“not applicable”****]*

Appendix 3. List of Approved Subcontractors

Appendix 4. List of Goods and Major Components

Appendix 5. Custom Materials

Appendix 6. Revised Schedule of Requirements (if any)

Appendix 7. Minutes of contract Finalization Discussions and Agreed-to contract Amendments

IN WITNESS WHEREOF the procuring entity and the supplier have caused this Agreement to be duly executed by their duly authorized representatives the day and year first above written.

For and on behalf of the procuring entity

Signed:

in the capacity of [ insert: title or other appropriate designation]

in the presence of

For and on behalf of the supplier

Signed:

in the capacity of [ insert: title or other appropriate designation]

in the presence of

Appendix 1. Supplier’s Representative

In accordance with GCC Clause 1.1 (b) (iv), the supplier’s Representative is:

Name: [ insert: name and provide title and address further below, or state “to be nominated within fourteen (14) days of the Effective Date”]

Title: [ if appropriate, insert: title]

In accordance with GCC Clause 8.1, the supplier's addresses for notices under the contract are:

Address of the supplier's Representative: [ as appropriate, insert: personal delivery, postal, cable, telegraph, telex, facsimile, electronic mail, and/or EDI addresses.]

Fallback address of the supplier: [ as appropriate, insert: personal delivery, postal, cable, telegraph, telex, facsimile, electronic mail, and/or EDI addresses.]

Appendix 2. Adjudicator

In accordance with GCC Clause 1.1 (b) (vi), the agreed-upon Adjudicator is:

Name: [ insert: name]

Title: [ insert: title]

Address: **[** insert: postal address]

Telephone: [ insert: telephone]

In accordance with GCC Clause 45.1.3, the agreed-upon fees and reimbursable expenses are:

Hourly Fees: [ insert: hourly fees]

Reimbursable Expenses: [ list: reimbursables]

Pursuant to GCC Clause 45.1.4, if at the time of contract signing, agreement has not been reached between the procuring entity and the supplier, an Adjudicator will be appointed by the Appointing Authority named in the SCC.

Appendix 3. List of Approved Subcontractors

The procuring entity has approved use of the following Subcontractors nominated by the supplier for carrying out the item or component of the goods indicated. Where more than one Subcontractor is listed, the supplier is free to choose between them, but it must notify the procuring entity of its choice sufficiently in advance of the time when the subcontracted work needs to commence to give the procuring entity reasonable time for review. In accordance with GCC Clause 22.1, the supplier is free to submit bids for Subcontractors for additional items from time to time. No subcontracts shall be placed with any such Subcontractors for additional items until the Subcontractors have been approved in writing by the procuring entity and their names have been added to this list of Approved Subcontractors, subject to GCC Clause 22.3.

[specify: item, approved Subcontractors, and their place of registration that the supplier proposed in the corresponding attachment to its bid and that the procuring entity approves that the supplier engage during the performance of the contract. Add additional pages as necessary.]

|  |  |  |
| --- | --- | --- |
| Item | Approved Subcontractors | Place of Registration |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

Appendix 4. List of Goods and Major Components

|  |  |
| --- | --- |
| **Item No** | **Description** |
|  |  |
|  |  |
|  |  |
|  |  |
|  |  |

Appendix 5. Custom Materials

The follow table specifies the Custom Materials the supplier will provide under the contract.

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| --- |
| Custom Materials |
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Appendix 6. Revised Schedule of Requirements

The attached Revised Schedule of Requirements (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the Schedule of Requirements contained in the supplier’s bid. These Revised Schedule of Requirements reflect any corrections or adjustments to the supplier’s bid price, pursuant to the ITB Clauses 32.3 and 40.2.

Appendix 7. Minutes of contract Finalization Discussions and Agreed-to contract Amendments

The attached contract amendments (if any) shall form part of this Contract Agreement and, where differences exist, shall supersede the relevant clauses in the GCC, SCC, Technical Requirements, or other parts of this contract as defined in GCC Clause 1.1 (a) (ii).

* + 1. **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]*

Ref 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 procuring entity]*

**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 as guarantor, hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s[[2]](#footnote-2)) 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]*,*[[3]](#footnote-3)* 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, International Chamber of Commerce Publication No. 758, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

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

* + 1. **Bank Guarantee for Advance Payment**

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

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

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

*[Bank’s letterhead]*

**Beneficiary:** *[insert legal name and address of procuring entity]*

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

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

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

At the request of the supplier, we as Guarantor hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)[[4]](#footnote-4) in figures and words]* upon receipt by us of your first demand in writing declaring that the supplier is in breach of its obligation under the Contract because the supplier used the advance payment for purposes other than toward delivery of the goods.

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

The maximum amount of this guarantee shall be progressively reduced by the amount of the advance payment repaid by the Applicant as specified in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall expire, at the latest, upon our receipt of a copy of the interim payment certificate indicating that ninety (90) percent of the Accepted Contract Amount, has been certified for payment, or on the *[insert date]*, whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the supplier under the Contract until *[insert date[[5]](#footnote-5)].*

This Guarantee is subject to the Uniform Rules for Demand Guarantees, International Chamber of Commerce Publication No. 758.

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

3.1 Installation Certificate

Date: [ insert: date]

Ref: [ insert: title and number of ICB]

contract: [ insert: name and number of contracts]

To: [ insert: name and address of supplier]

Dear Sir or Madam:

Pursuant to GCC Clause 28 (Installation of the Goods) of the contract entered into between yourselves and the [ insert: name of procuring entity ](hereinafter the “procuring entity”) dated [ insert: date of contract ], relating to the [ insert: brief description of the goods ], we hereby notify you that the goods (or a major component thereof) was deemed to have been correctly installed on the date specified below.

1. Description of the Goods (or major component: [ insert: description]

2. Date of Installation: [ insert: date]

Notwithstanding the above, you are required to complete the outstanding items listed in the attachment to this certificate as soon as practicable. This letter shall not relieve you of your obligation to achieve Operational Acceptance of the Goods in accordance with the contract nor of your obligations during the Warranty Period.

For and on behalf of the procuring entity

Signed:

Date:

in the capacity of: [ state: “Project Manager” or state the title of a higher-level authority in the procuring entity]

3.2 Operational Acceptance Certificate

Date: [ insert: date]

Ref: [ insert: title and number of ICB]

contract: [ insert: name of goods and number of contracts]

To: [ insert: name and address of supplier]

Dear Sir or Madam:

Pursuant to GCC Clause 29 (Commissioning and Operational Acceptance) of the contract entered into between yourselves and the [ insert: name of procuring entity ] (hereinafter the “procuring entity”) dated [ insert: date of contract ], relating to the [ insert: brief description of the goods ], we hereby notify you the goods (or major component identified below) successfully completed the Operational Acceptance Tests specified in the contract. In accordance with the terms of the contract, the procuring entity hereby takes over the goods (or major component identified below), together with the responsibility for care and custody and the risk of loss thereof on the date mentioned below.

1. Description of the Goods (or major component): [ insert: description]

2. Date of Operational Acceptance: [ insert: date]

This letter shall not relieve you of your remaining performance obligations under the contract nor of your obligations during the Warranty Period.

For and on behalf of the procuring entity

Signed:

Date:

in the capacity of: [ state: “Project Manager” or higher-level authority in the procuring entity]

**Change Order Procedure and Forms**

Date:

Ref No: \_\_\_\_\_\_

CONTENTS

1. General

2. Change Order Log

3. References for Changes

ANNEXES

Annex 1 Request for Change bid

Annex 2 Estimate for Change bid

Annex 3 Acceptance of Estimate

Annex 4 Change bid

Annex 5 Change Order

Annex 6 Pending Agreement Change Order

Annex 7 Application for Change bid

**Change Order Procedure**

**1. General**

This section provides samples of procedures and forms for implementing changes in the goods during the performance of the contract in accordance with GCC Clause 41 (Change to the goods) of the General Conditions.

**2. Change Order Log**

The supplier shall keep an up-to-date Change Order Log to show the current status of Requests for Change and Changes authorized or pending, as Annex 8. Entries of the Changes in the Change Order Log shall be made to ensure that the log is up-to-date. The supplier shall attach a copy of the current Change Order Log in the monthly progress report to be submitted to the procuring entity.

**3. References for Changes**

(1) Request for Change as referred to in GCC Clause 41 shall be serially numbered CR-X-nnn.

(2) Estimate for Change bid as referred to in GCC Clause 41 shall be serially numbered CN-X-nnn.

(3) Acceptance of Estimate as referred to in GCC Clause 41 shall be serially numbered CA-X-nnn.

(4) Change bid as referred to in GCC Clause 41 shall be serially numbered CP-X-nnn.

(5) Change Order as referred to in GCC Clause 41 shall be serially numbered CO-X-nnn.

Note: (a) Requests for Change issued from the procuring entity’s Home Office and the Site representatives of the procuring entity shall have the following respective references:

Home Office CR-H-nnn

Site CR-S-nnn

(b) The above number “nnn” is the same for Request for Change, Estimate for Change bid, Acceptance of Estimate, change bid and Change Order.

**Annex 1. Request for Change bid**

(procuring entity’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

With reference to the captioned contract, you are requested to prepare and submit a Change bid for the Change noted below in accordance with the following instructions within *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* days of the date of this letter*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Change Request No. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

3. Originator of Change: procuring entity: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

supplier (by Application for Change bid No. *\_\_\_\_\_\_\_*:

4. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Facilities and/or Item No. of equipment related to the requested Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_*

6. Reference drawings and/or technical documents for the request of Change:

Drawing No./Document No. Description

7. Detailed conditions or special requirements on the requested Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

8. General Terms and Conditions:

(a) Please submit your estimate to us showing what effect the requested Change will have on the contract Price.

(b) Your estimate shall include your claim for the additional time, if any, for completion of the requested Change.

(c) If you have any opinion negative to the adoption of the requested Change in connection with the conformability to the other provisions of the contract or the safety of the Plant or Facilities, please inform us of your opinion in your bid of revised provisions.

(d) Any increase or decrease in the work of the supplier relating to the services of its personnel shall be calculated.

(e) You shall not proceed with the execution of the work for the requested Change until we have accepted and confirmed the amount and nature in writing.

(procuring entity’s Name)

(Signature)

(Name of signatory)

(Title of signatory)

**Annex 2. Estimate for Change bid**

(supplier’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

With reference to your Request for Change bid, we are pleased to notify you of the approximate cost of preparing the below-referenced Change bid in accordance with GCC Sub-Clause 41.2.1 of the General Conditions. We acknowledge that your agreement to the cost of preparing the Change bid, in accordance with GCC Sub-Clause 41.2.2, is required before estimating the cost for change work.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Change Request No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

3. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

4. Scheduled Impact of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Cost for Preparation of Change bid: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*[[6]](#footnote-6)

(a) Engineering (Amount)

(i) Engineer hrs x rate/hr =

(ii) Draftsperson hrs x rate/hr =

Sub-total hrs

Total Engineering Cost

(b) Other Cost

Total Cost (a) + (b)

(supplier’s Name)

(Signature)

(Name of signatory)

(Title of signatory)

**Annex 3. Acceptance of Estimate**

(procuring entity’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

We hereby accept your Estimate for Change bid and agree that you should proceed with the preparation of the Change bid.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Change Request No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

3. Estimate for Change bid No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

4. Acceptance of Estimate No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

6. Other Terms and Conditions: In the event that we decide not to order the Change accepted, you shall be entitled to compensation for the cost of preparation of Change bid described in your Estimate for Change bid mentioned in para. 3 above in accordance with GCC Clause 41 of the General Conditions.

(procuring entity’s Name)

(Signature)

(Name and Title of signatory)

**Annex 4. Change bid**

(supplier’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

In response to your Request for Change bid No. *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*, we hereby submit our bid as follows:

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Change bid No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

3. Originator of Change: procuring entity: [*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

supplier: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

4. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Reasons for Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

6. Facilities and/or Item No. of Equipment related to the requested Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

7. Reference drawings and/or technical documents for the requested Change:

Drawing/Document No. Description

8. Estimate of increase/decrease to the contract Price resulting from Change bid:[[7]](#footnote-7) (Amount)

(a) Direct material

(b) Major construction equipment

(c) Direct field labor (Total hrs)

(d) Subcontracts

(e) Indirect material and labor

(f) Site supervision

(g) Head office technical staff salaries

Process engineer hrs @ rate/hr

Project engineer hrs @ rate/hr

Equipment engineer hrs @ rate/hr

Procurement hrs @ rate/hr

Draftsperson hrs @ rate/hr

Total hrs

(h) Extraordinary costs (computer, travel, etc.)

(i) Fee for general administration, % of Items

(j) Taxes and customs duties

Total lump sum cost of Change bid

*(Sum of items (a) to (j))*

Cost to prepare Estimate for Change bid

*(Amount payable if Change is not accepted)*

9. Additional time for Completion required due to Change bid

10. Effect on the Functional Guarantees

11. Effect on the other terms and conditions of the contract

12. Validity of this bid: within *[Number]* days after receipt of this bid by the procuring entity

13. Other terms and conditions of this Change bid:

(a) You are requested to notify us of your acceptance, comments or rejection of this detailed Change bid within *\_\_\_\_\_\_\_\_\_\_\_\_\_\_* days from your receipt of this bid.

(b) The amount of any increase and/or decrease shall be taken into account in the adjustment of the contract Price.

(c) supplier’s cost for preparation of this Change bid:[[8]](#footnote-8)2

(supplier’s Name)

(Signature)

(Name of signatory)

(Title of signatory)

**Annex 5. Change Order**

(procuring entity’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

We approve the Change Order for the work specified in the Change bid (No. *\_\_\_\_\_\_\_*), and agree to adjust the contract Price, Time for Completion and/or other conditions of the contract in accordance with GCC Clause 41 of the General Conditions.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Change Request No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

3. Change Order No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

4. Originator of Change: procuring entity: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

supplier: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Authorized Price:

Ref. No.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Foreign currency portion *\_\_\_\_\_\_\_\_\_\_* plus Local currency portion *\_\_\_\_\_\_\_\_\_\_*

6. Adjustment of Time for Completion

None Increase *\_\_\_\_\_\_\_\_\_* days Decrease *\_\_\_\_\_\_\_\_\_* days

7. Other effects, if any

Authorized by: Date:

(procuring entity)

Accepted by: Date:

(supplier) **Annex 6. Pending Agreement Change Order**

(procuring entity’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: [*\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

We instruct you to carry out the work in the Change Order detailed below in accordance with GCC Clause 41 of the General Conditions.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. procuring entity’s Request for Change bid No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*dated: *\_\_\_\_\_\_\_\_\_\_*

3. supplier’s Change bid No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* dated: *\_\_\_\_\_\_\_\_\_\_*

4. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

5. Facilities and/or Item No. of equipment related to the requested Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

6. Reference Drawings and/or technical documents for the requested Change:

Drawing/Document No. Description

7. Adjustment of Time for Completion:

8. Other change in the contract terms:

9. Other terms and conditions:

(procuring entity’s Name)

(Signature)

(Name of signatory)

(Title of signatory)

**Annex 7. Application for Change bid**

(supplier’s Letterhead)

To: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_* Date:

Attention: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Name: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

contract Number: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

Dear Ladies and/or Gentlemen:

We hereby propose that the below-mentioned work be treated as a Change in the Facilities.

1. Title of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

2. Application for Change bid No./Rev.: *\_\_\_\_\_\_\_\_\_\_\_\_\_* dated: *\_\_\_\_\_\_\_\_\_*

3. Brief Description of Change: *\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_*

4. Reasons for Change:

5. Order of Magnitude Estimation (in the currencies of the contract):

6. Scheduled Impact of Change:

7. Effect on Functional Guarantees, if any:

8. Appendix:

(supplier’s Name)

(Signature)

(Name of signatory)

(Title of signatory)

1. The amount of the Bond shall be denominated in the currency of Jamaica or the equivalent amount in a freely convertible currency. [↑](#footnote-ref-1)
2. *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 procuring entity.* [↑](#footnote-ref-2)
3. *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 procuring entity should note that in the event of an extension of the time to perform the Contract, the procuring entity 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 procuring entity 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 procuring entity’s written request for such extension, such request to be presented to us before the expiry of the Guarantee.”* [↑](#footnote-ref-3)
4. *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 procuring entity.* [↑](#footnote-ref-4)
5. *Insert the Delivery date stipulated in the Contract Delivery Schedule. The procuring entity should note that in the event of an extension of the time to perform the Contract, the procuring entity 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 procuring entity 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 procuring entity’s written request for such extension, such request to be presented to us before the expiry of the Guarantee.”* [↑](#footnote-ref-5)
6. Costs shall be in the currencies of the contract. [↑](#footnote-ref-6)
7. Costs shall be in the currencies of the contract. [↑](#footnote-ref-7)
8. 2 Specify where necessary. [↑](#footnote-ref-8)