

KINGDOM OF CAMBODIA

Procurement Manual

Volume II

For All Externally Financed
Projects/Programs in Cambodia



Updated Version
May 2012

KINGDOM OF CAMBODIA

PROCUREMENT MANUAL

Volume II

National Bidding Documents

For Externally Financed Projects/Programs in
Cambodia

May 2012



ଦେଉ: ଖେଳ, ଜାଣି. ପଦ

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គម្រោងហិរញ្ញប្បទានសហប្រតិបត្តិការពីដៃគូអភិវឌ្ឍន៍

រាជរដ្ឋាភិបាលកម្ពុជា

- បានឃើញរដ្ឋធម្មនុញ្ញ នៃព្រះរាជាណាចក្រកម្ពុជា
- បានឃើញព្រះរាជក្រឹត្យលេខនស/រកម/០៩០៨/១០៥៥ ចុះថ្ងៃទី២៥ ខែកញ្ញា ឆ្នាំ២០០៨ ស្តីពីការតែងតាំងរាជរដ្ឋាភិបាល នៃព្រះរាជាណាចក្រកម្ពុជា
- បានឃើញព្រះរាជក្រមលេខ០២/នស/៩៤ ចុះថ្ងៃទី២០ ខែកក្កដា ឆ្នាំ១៩៩៤ ដែលប្រកាសឱ្យប្រើច្បាប់ស្តីពីការរៀបចំ និងការប្រព្រឹត្តទៅនៃគណៈរដ្ឋមន្ត្រី
- បានឃើញព្រះរាជក្រមលេខ នស/រកម/០១៩៦/១៨ ចុះថ្ងៃទី២៤ ខែមករា ឆ្នាំ១៩៩៦ ដែលប្រកាសឱ្យប្រើច្បាប់ស្តីពីការបង្កើតក្រសួងសេដ្ឋកិច្ច និងហិរញ្ញវត្ថុ
- បានឃើញព្រះរាជក្រមលេខ នស/រកម/០១១២/០០៤ ចុះថ្ងៃទី១៤ ខែមករា ឆ្នាំ២០១២ ដែលប្រកាសឱ្យប្រើច្បាប់ស្តីពីលទ្ធកម្មសាធារណៈ
- បានឃើញអនុក្រឹត្យលេខ០៤ អនក្រ.បក ចុះថ្ងៃទី២០ ខែមករា ឆ្នាំ២០០០ ស្តីពីការរៀបចំ និងការប្រព្រឹត្តទៅនៃក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ
- បានឃើញអនុក្រឹត្យលេខ ៧៨/អនក្រ/បក ចុះថ្ងៃទី១៨ ខែវិច្ឆិកា ឆ្នាំ២០០៤ និង អនុក្រឹត្យលេខ២០/អនក្រ/បក ចុះថ្ងៃទី២៩ ខែមីនា ឆ្នាំ២០០៨ ស្តីពីការបំពេញបន្ថែម និងកែសម្រួលនាយកដ្ឋានមួយចំនួននៃក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ
- បានឃើញអនុក្រឹត្យលេខ ១៣៤/អនក្រ/បក ចុះថ្ងៃទី១៥ ខែកញ្ញា ឆ្នាំ២០០៨ ស្តីពីការដំឡើងទីភ្នាក់ងារគយនិងរដ្ឋាករ នាយកដ្ឋានពន្ធដារ និងរតនាគារជាតិនៃក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ ឱ្យទៅជាអគ្គនាយកដ្ឋានគយនិងរដ្ឋាករកម្ពុជា អគ្គនាយកដ្ឋានពន្ធដារ និងអគ្គនាយកដ្ឋានរតនាគារជាតិ ស្ថិតក្រោមការគ្រប់គ្រងរបស់ក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ
- យោងតាមសំណើរបស់រដ្ឋមន្ត្រីក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ

សម្រេច

មាត្រា ១.-

ដាក់ឱ្យប្រើប្រាស់នីតិវិធីរួមបច្ចុប្បន្នកម្ម សម្រាប់អនុវត្តគម្រោងហិរញ្ញប្បទានសហប្រតិបត្តិការពីដៃគូអភិវឌ្ឍន៍នានា ដូចមានខ្លឹមសារភ្ជាប់មកជាមួយអនុក្រឹត្យនេះ ជំនួសនីតិវិធីរួមសម្រាប់ការអនុវត្តគម្រោងហិរញ្ញប្បទានសហប្រតិបត្តិការពីធនាគារពិភពលោក និងធនាគារអភិវឌ្ឍន៍អាស៊ី ដែលបានដាក់ឱ្យអនុវត្តដោយអនុក្រឹត្យលេខ ១៤ អនក្រ.បក ចុះថ្ងៃទី២៦ ខែកុម្ភៈ ឆ្នាំ២០០៧ ។

មាត្រា ២.-

នីតិវិធីរួមបច្ចុប្បន្នកម្ម ដែលត្រូវបានដាក់ឱ្យប្រើប្រាស់ក្រោមអនុក្រឹត្យនេះ រួមមាន៖

- ១- នីតិវិធីរួមបច្ចុប្បន្នកម្មសម្រាប់ការគ្រប់គ្រងរដ្ឋបាលគម្រោង
- ២- នីតិវិធីរួមបច្ចុប្បន្នកម្មសម្រាប់ការគ្រប់គ្រងហិរញ្ញវត្ថុគម្រោង
- ៣- នីតិវិធីរួមបច្ចុប្បន្នកម្មសម្រាប់ការគ្រប់គ្រងកិច្ចលទ្ធកម្មគម្រោង

សម្រាប់គម្រោងហិរញ្ញប្បទានពីដៃគូអភិវឌ្ឍន៍នានានៅកម្ពុជា ។

មាត្រា ៣.-

រដ្ឋមន្ត្រីទទួលបន្ទុកទិស្តីការគណៈរដ្ឋមន្ត្រី រដ្ឋមន្ត្រីក្រសួងសេដ្ឋកិច្ច និងហិរញ្ញវត្ថុ រដ្ឋមន្ត្រី និងរដ្ឋលេខាធិការគ្រប់ក្រសួង ស្ថាប័នពាក់ព័ន្ធ ត្រូវអនុវត្តអនុក្រឹត្យនេះឱ្យមានប្រសិទ្ធភាពខ្ពស់ ចាប់ពីថ្ងៃចុះហត្ថលេខានេះ តទៅ ។

រាជធានីភ្នំពេញ ថ្ងៃទី ២១ ខែ កក្កដា ឆ្នាំ ២០១២



សម្តេចអគ្គមហាសេនាបតីតេជោ ហ៊ុន សែន

កន្លែងទទួល៖

- ក្រសួងព្រះបរមរាជវាំង
- អគ្គលេខាធិការដ្ឋានព្រឹទ្ធសភា
- អគ្គលេខាធិការដ្ឋានរដ្ឋសភា
- អគ្គលេខាធិការដ្ឋានរាជរដ្ឋាភិបាល
- ខុទ្ទកាល័យសម្តេចអគ្គមហាសេនាបតីតេជោ
- ខុទ្ទកាល័យឧបសម្ព័ន្ធរដ្ឋមន្ត្រី
- គ្រប់ក្រសួង ស្ថាប័ន
- ដូចមាត្រា ៣
- ឯកសារ-កាលប្បវត្តិ

ធានយកសេចក្តីជម្រាបជូន

សម្តេចអគ្គមហាសេនាបតីតេជោ ហ៊ុន សែន



នាយករដ្ឋមន្ត្រី ជឿម្បីចុះហត្ថលេខា

គាត ឈន់

រដ្ឋមន្ត្រីក្រសួងសេដ្ឋកិច្ច និង ហិរញ្ញវត្ថុ

**KINGDOM OF CAMBODIA
NATION – RELIGION – KING**

Royal Government of Cambodia
No. 74 ANK. BK

SUB-DECREE

On

**Promulgating the Updated Standard Procedures
for Implementing All Externally Financed Projects/Programs**

The Royal Government of Cambodia

- Having seen the Constitution of the Kingdom of Cambodia
- Having seen the Royal Decree No. NS/RKM/0908/1055, dated September 25, 2008 on the Formation of the Royal Government of Cambodia
- Having seen the Royal Kram No. 02/NS/94, dated July 20, 1994 on Promulgating the Law on the Organization and functioning of the Council of Ministers
- Having seen the Royal Kram No. NS/RKM/0196/18, dated January 24, 1996 on Promulgating the Law on the Establishment of the Ministry of Economy and Finance
- Having seen the Royal Kram No. NS/RKM/0112/004, dated January 14, 2012 on Promulgating the Law on the Public Procurement
- Having seen the Sub-Decree No. 04/ANK/BK, dated January 20, 2000 on the Organization and Functioning of the Ministry of Economy and Finance
- Having seen the Sub-Decree No. 78/ANK/BK, dated November 18, 2004 and Sub-Decree No. 20/ANK/BK, dated March 29, 2008 on the Fulfillment and Restructuring of Certain Departments of the Ministry of Economy and Finance
- Having seen the Sub-Decree No. 134/ANK/BK, dated September 15, 2008 on the Promotion of the Department of Customs and Excise, the Department of Taxation, the Department of National Treasury of the Ministry of Economy and Finance to the General Department of Customs and Excise, the General Department of Taxation, the General Department of National Treasury under the Administration of the Ministry of Economy and Finance
- Pursuant to the request of the Minister of Economy and Finance

Hereby Decides

Article 1:

Promulgate the Updated Standard Procedures for Implementing All Externally Financed Projects/Programs in Cambodia as attached to this Sub-Decree to replace the Standard Procedures for implementing the Asian Development Bank and the World Bank Financed Projects/Programs in Cambodia, which was promulgated by the Sub-Decree No. 14 RNK/BK, dated 26th February, 2007.

Article 2:

The Updated Standard Procedures for Implementing All Externally Financed Projects/Programs promulgated under this Sub-Decree comprise of:

- 1- Updated Standard Operating Procedures for All Externally Financed Projects/ Programs in Cambodia
- 2- Updated Procurement Manual for All Externally Financed Projects/Programs in Cambodia
- 3- Updated Financial Management Manual for All Externally Financed Projects/ Programs in Cambodia.

Article 3:

Minister in charge of the Cabinet of the Council of Ministers, Minister of Economy and Finance, Ministers and Secretaries of State of all concerned Ministries and Institutions shall implement this Sub-Decree effectively from the date of signature herein.

Signed and sealed in Phnom Penh on the 22nd Day of May, 2012

Prime Minister
Samdach Akka Moha Sena Padei Techo HUN SEN

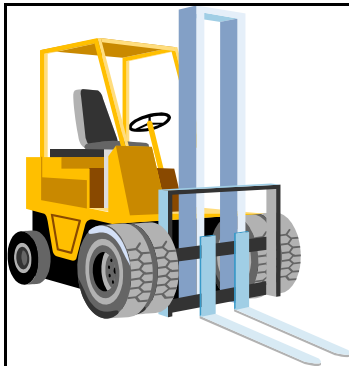
Have submitted to Samdech Akka Moha Sena Padei Techo HUN SEN for signature

Signed and sealed
Keat Chhon
Minister of Economy and Finance

Recipients:

- Ministry of the Royal Palace
- Secretariat General of the Senate
- Secretariat General of the National Assembly
- Secretariat General of the Royal Government
- Cabinet of Samdech Akka Moha Sena Padei Techo HUN SEN, Prime Minister
- Cabinet of Deputy Prime Ministers
- All concerned Ministries and Institutions
- As Article 3
- Archives-Chronicles

Annex IV a Standard National Competitive Bidding Document Procurement of Goods



Kingdom of Cambodia

Preface

The use of this document is mandated for all goods procurement under the National Competitive Bidding method of procurement with an estimated value within the threshold for National Competitive Bidding stated in Annex III of the Procurement Manual except where the RGC, represented by MEF, and respective DP have agreed to amend of any part of the document

It has been approved for use as national competitive bidding on projects funded by the International Bank for Reconstruction and Development (IBRD), its affiliate, the International Development Association (IDA), both hereinafter referred to as the WB, and the Asian Development Bank (ADB). Through modification of the data sheets it has been made consistent with policies and procedures laid down in the *Guidelines: Procurement of Goods, Works, and Non-Consulting Services under IBRD Loans and IDA Credits & Grants* and *Guidelines for Procurement under Asian Development Bank Loans*. This standard bidding document can also be used for other DP financed projects, if the DP agrees to this.

This Standard Bidding Document has been prepared for the procurement of goods with an estimated value of less than or equal to US\$300,000.

Goods with estimated value of more than \$300,000 must employ the respective DP's own international competitive bidding (ICB) procedures and processes as set out in their Guidelines and the Standard Bidding Documents issued in support of those Guidelines.

However this Standard Bidding Documents can be used for procurement of goods exceeding the threshold of \$300,000 if the DP and MEF have agreed to this and is specified in the approved Project Procurement Plan.

To obtain further information on procurement under World Bank and Asian Development Bank assisted projects, contact:

For the World Bank
Procurement Policy and Services Group
Operations Policy and Country Services Vice Presidency
Washington, D.C. 20433 U.S.A.
pddocuments@worldbank.org
<http://www.worldbank.org/procure>

For the Asian Development Bank
Cambodia Resident Mission
29 Suramarit Boulevard (Street 268)
Sangkat Chaktomuk Khan Daun Penh,
Phnom Penh, Cambodia
Fax: +855 23-215807
<http://www.adb.org/carm>

Ministry of Economy and Finance
Department of Investment and Cooperation
Street 92, Phnom Penh, Cambodia

Fax (855-23) 725 341
<http://www.mef.gov.kh/>

Table of Contents

INSTRUCTIONS	4
INVITATION FOR BIDS.....	5
SECTION I, INSTRUCTIONS TO BIDDERS.....	8
SECTION II, BID DATA SHEET	26
SECTION III, GENERAL CONDITIONS OF CONTRACT	29
SECTION IV, SPECIAL CONDITIONS OF CONTRACT	40
SECTION V, SPECIFICATIONS & STATEMENT OF COMPLIANCE.....	45
SECTION VI, SCHEDULE OF REQUIREMENTS.....	47
SECTION VII, BIDDING FORMS.....	50
SECTION VIII, CONTRACT FORMS	61

Instructions

In order to simplify the preparation of bidding documents for each procurement, the SBD groups the provisions that are intended to be used unchanged in Section I, Instructions to Bidders, and in Section III, General Conditions of Contract. Data and provisions specific to each procurement and contract should be included in Section II, Bid Data Sheet; Section IV, Special Conditions of Contract; Section VI, Schedule of Requirements; and Section V, Specifications & Statement of Compliance. The forms to be used are provided in Section VII, Bidding Forms, and Section VIII, Contract Forms.

Care should be taken to check the relevance of the provisions of the SBD against the requirements of the specific goods to be procured. The following general directions should be observed when using the documents. In addition, each section is prepared with notes intended only as information for the Purchaser or the person drafting the bidding documents. They shall not be included in the final documents, except for the notes introducing Section VIII, Forms, where the information is useful for the Bidder.

- (a) Specific details, such as the “name of the Purchaser” and “address for bid submission,” should be furnished in the Invitation for Bids, in the Bid Data Sheet, and in the Special Conditions of Contract. The final documents should contain neither blank spaces nor options.
- (b) Amendments, if any, to the Instructions to Bidders and to the General Conditions of Contract should be made through the Bid Data Sheet and the Special Conditions of Contract, respectively.
- (c) Footnotes or notes in italics included in the Invitation for Bids, Bid Data Sheet, Special Conditions of Contract, and in the Schedule of Requirements are not part of the text of the document, although they contain instructions that the Purchaser should strictly follow. The final document should contain no footnotes.
- (d) The criteria for bid evaluation and the various methods of evaluation in the Instructions to Bidders and data sheet should be carefully reviewed. Only those that are selected to be used for the procurement in question should be retained and expanded, as required, in the Bid Data Sheet or in the Technical Specifications, as appropriate. The criteria that are not applicable should be deleted from the Bid Data Sheet.
- (e) Clauses included in the Special Conditions of Contract are illustrative of the provisions that should be drafted specifically by the Purchaser for each procurement package.
- (f) The forms provided in Section VII, Bidding Forms should be completed by the Bidder or the Supplier; the footnotes in these forms should remain, since they contain instructions which the Bidder or the Supplier should follow.

Invitation for Bids

The Kingdom of Cambodia

[Name of Project]

[Loan / Credit/Grant Number]

[Contract No. and Description]

1. The Royal Government of Cambodia (RGC) *[insert “has received” or “has applied for”]* a *[insert “loan/credit” or “grant”]* from the *[insert Development Partner]* toward the cost of *[insert name of Project]*, and it intends to apply part of the proceeds of this *[insert “loan/credit” or “grant”]* to payments under the Contract for *[insert name/no. of Contract]*.

If the government is using its own funds delete the above paragraph renumbering the subsequent ones

2. The *[insert complete name of Purchaser]* now invites sealed bids from eligible and qualified bidders for *[insert brief description of the Goods to be procured]*.¹
3. Procurement will be conducted through National Competitive Bidding Procedures and under the laws and regulations governing public procurement within the Kingdom of Cambodia.
4. This invitation is open to all bidders *[Use if the Funding is from WB or RGC. In case of ADB or any other Development Partner, delete this sentence and replace it with “This invitation is open to all eligible bidders from eligible source countries as described in the Bidding Document”]*.
5. Interested eligible bidders may obtain further information from *[insert complete legal name of Purchaser; name and e-mail of officer in charge]* and inspect the Bidding Documents at the address given below from *[insert office hours]*.
6. Qualification requirements include: *[insert the key technical, financial, legal and other qualification requirements specified in ITB sub-clause 14.2 of the bidding documents]*
7. A complete set of Bidding Documents in *[insert Khmer or English]* may be purchased by interested bidders on the submission of a written application to the address given

¹ A brief description of the type(s) of Goods or Goods should be provided, including quantities, location of Project, and other information necessary to enable potential bidders to decide whether or not to respond to the Invitation

below and upon payment of a non refundable fee *[insert amount in US Dollars]* or its equivalent in Cambodian Riel being *[insert Riel equivalent]*. The method of payment will be *[insert method of payment, for example, certified check, direct deposit to specified account number]*. The Bidding Documents will be sent by *[insert delivery procedure]* or may be collected in person at the discretion of the bidder. Other than payment of the non-refundable fee specified above, there shall be no other conditions for purchase of the bidding documents.

8. In case of any difficulty in purchase of the bidding documents, interested parties may contact in writing *[insert designation, address, telephone and fax number and email address of government officer who should be in higher position in the Executing Agency than the official specified in paragraph 5 above]* and also send a copy of the communication to:

1. Director

Department of Investment and Cooperation
Ministry of Economy and Finance
New Building 2nd Floor, Street 92, Sangkat Wat Phnom'
Khan Daun Penh, Cambodia
Phone:
Fax:
Email:

2. Project Team Leader (Development Partner)

Contract address and email address

9. Bids must be delivered to the address given below at or before *[insert time and date]*. Late bids will be rejected. Bids will be opened in the presence of the Bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend shall be allowed to be present in person at the address given below at *[insert the same time and date as the deadline for bid submission]*.
10. All bids shall be accompanied by a Bid Securing Declaration as described in the Instructions to Bidders

Guidance note:

If a security is required on other than WB and ADB financed projects, replace the above paragraph with the following text

10 All bids shall be accompanied by a Bid Security in the amount of US\$ *[insert amount]*

11. The Royal Government of Cambodia and/or the Development Partner will respectively declare a bidder ineligible either indefinitely or for a stated period of time, to be awarded a contract financed by the Royal Government of Cambodia and/or the Development Partner respectively, if it at any time determines that the

bidder has engaged in corrupt or fraudulent, coercive, collusive or obstructive practices in competing for or in executing a contract.

12. The address(es) referred to above is (are): *[insert detailed address(es) including complete legal name of the Purchaser, Office designation (room number) , name of Officer, Street address, City (code), Country; Insert different addresses if addresses for purchase of bidding documents, bid submission and bid opening are different] Change address and Project Director and also two locations for selling bidding documents.*

Section I, Instructions to Bidders

Notes on the Instructions to Bidders

This section of the bidding documents provides the information necessary for bidders to prepare responsive bids, in accordance with the requirements of the Purchaser. It also provides information on bid submission, opening, and evaluation, and on the award of contract.

Section I, Instructions to Bidders contains provisions that are to be used unchanged. Section II, Bid Data Sheet consists of provisions that supplement, amend, or specify in detail information or requirements included in Section I, Instructions to Bidders and which are specific to each procurement package.

Matters governing the performance of the Supplier, payments under the contract, or matters affecting the risks, rights, and obligations of the parties under the contract are not normally included in this section, but rather under Section III, General Conditions of Contract, and/or Section IV, Special Conditions of Contract. If duplication of a subject is inevitable in the other sections of the document prepared by the Purchaser, care must be exercised to avoid contradictions between clauses dealing with the same matter.

A. GENERAL

1. Scope of Bid

- 1.1. The Purchaser, through the Royal Government of Cambodia (RGC), indicated in the **Special Conditions of Contract (SCC)** sub-clause 1.1(g) issues these Bidding Documents for supply of Goods and Related services specified in Section VI, Schedule of Requirements. The name and identification number of this procurement are specified in the **Bid Data Sheet (BDS)**.

2. Source of Funds

- 2.1. RGC will receive funding from the Development Partner named in **SCC** sub-clause 1.1(j) in the amount and towards the cost of the Project described in the **Bid Data Sheet (BDS)**. The Purchaser intends to apply a portion of the proceeds of the funding to eligible payments under the contract(s) for which these Bidding Documents are issued. No payment shall be made to persons or entities for any import of goods, if such payment or import is prohibited by a decision of the United Nation's Security Council, taken under chapter VII of the Charter of the United Nations.

3. Fraud and Corruption

- 3.1. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "Corrupt Practices" mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) "Fraudulent Practices" is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) "Collusive Practices" is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;

- (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
- (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP’s sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP’s financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

- 3.2. All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Section VII, Bidding Forms and submit it with their bid.

4. Eligible Bidders

- 4.1. A Bidder, and all parties constituting the Bidder, may have the nationality of any country unless otherwise indicated in **GCC Sub-Clause 6.1**. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services. Any limitation of eligibility stated in **GCC Sub-Clause 6.1** shall also apply to the origin of goods and related services to be used in the performance of the Contract. For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied.
- 4.2. Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods to be purchased under this Invitation for Bids.
- 4.3. A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest in situations that could include the following:
- (a) have controlling shareholders in common;
 - (b) have been involved in the past either directly or indirectly with the Purchaser or any other entity that helped identify the requirement; or
 - (c) contributed to the design, specifications, and other documents for the Project or this procurement; or
 - (d) Have controlling shareholders in common that are related to the second civil degree; or
 - (e) receive or have received any direct or indirect subsidy from any of them; or
 - (f) have the same authorized representative for purposes of this Bid; or
 - (g) participates in more than one bid either as a bidder or sub-contractor; or
 - (h) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder

- (i) if any of the bidder's senior officers or controlling shareholders are related to any officer of the Purchaser who is involved with this procurement process.
- 4.4. Bidders and their sub-contractors shall not be under a declaration of ineligibility for corrupt and fraudulent practices as described in ITB Sub-Clause 3.1 issued by the either the Development Partner or the RGC.
- 4.5. Government-owned enterprises in the Cambodia may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Purchaser.
- 4.6. All bidders are required to complete and submit with their bids the appropriate forms listed in Section VII, Bidding Forms attached hereto.

5. One Bid per Bidder

- 5.1. Each Bidder shall submit only one Bid. A Bidder who submits or participates in more than one Bid will cause all the Bids with the Bidder's participation to be disqualified. However, this does not limit the participation of subcontractors in more than one bid, provided that the cost of sub-contracted goods or related services (including labor) do not exceed the percentage of the bid price stated in the **BDS**.

6. Cost of Bidding

- 6.1. The Bidder shall bear all costs associated with the preparation and submission of its Bid, and the Purchaser shall not be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process.

B. BIDDING DOCUMENTS

7. Content of the Bidding Document

- 7.1. The goods required, bidding procedures, and contract terms are prescribed in the bidding documents. In addition to the Invitation for Bids, the bidding documents include:
 - Section I, Instructions to Bidders
 - Section II, Bid Data Sheet
 - Section III, General Conditions of Contract
 - Section IV, Special Conditions of Contract
 - Section V, Specifications & Statement of Compliance
 - Section VI, Schedule of Requirements
 - Section VII, Bidding Forms
 - Section VIII, Contract Forms
- 7.2. The Bidder is expected to examine all instructions, forms, terms, and specifications in the Bidding Document. Failure to furnish all information or documentation required by the Bidding Document may result in the rejection of the Bid.

8. Clarification of the Bidding Document

- 8.1 A prospective Bidder requiring any clarification of the Bidding Document shall contact the Purchaser in writing at the Purchaser's address indicated in the BDS. The Purchaser will respond in writing to any request for clarification, provided that such request is received no later than fourteen (14) calendar days prior to the deadline for submission of Bids.
- 8.2 The Purchaser shall forward copies of its response to all Bidders who have acquired the Bidding Document directly from it, including a description of the inquiry but without identifying its source. Should the Purchaser deem it necessary to amend the Bidding Document as a result of a clarification, it shall do so following the procedure under ITB Clause 9: Amendment of the Bidding Document

9. Amendment of the Bidding Document

- 9.1 At any time prior to the deadline for submission of the Bids, the Purchaser may amend the Bidding Document by issuing addenda.
- 9.2 Any addendum issued shall be part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Purchaser.
- 9.3 To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of the Bids, pursuant to ITB Sub-Clause 21.1

10. Language of Bid

- 10.1 All documents relating to the Bid shall be in English unless otherwise stated in the BDS.

11. Documents Comprising the Bid

- 11.1. The bid prepared by the Bidder shall comprise the following components:
 - (a) a Bid Submission Form and a Price Schedule completed in accordance with **ITB Clauses 12 and 13**;
 - (b) written confirmation authorizing the signatory of the Bid to commit the Bidder, in accordance with **ITB Sub-Clause 11.1(a)**
 - (c) documentary evidence established in accordance with **ITB Clause 14** that the Bidder is eligible to bid and is qualified to perform the contract if its bid is accepted;
 - (d) documentary evidence established in accordance with **ITB Clause 15** that the goods and ancillary services to be supplied by the Bidder are

eligible goods and services and conform to the bidding documents;
and

- (e) Bid Securing Declaration or Bid Security furnished in accordance with
ITB Clause 19

12. Bid Submission Form and Price Schedules

- 12.1 The Bidder shall submit the Bid Submission Form using the form furnished in Section VII, Bidding Forms. This form must be completed without any alterations to its format, and no substitutes shall be accepted. All blank spaces shall be filled in with the information requested
- 12.2 The Bidder shall submit the Price Schedule for Goods and for Related Services, whenever Related Services are specified in the Schedule of Requirements, using the forms furnished in Section VII, Bidding Forms.
- 12.3 Any discount offered must be unconditional. If offered, the discounts and the methodology for their application shall be quoted in the Bid Submission Form, or in a separate letter of discount which must be referenced and attached to the Bid Submission Form, bear the bidder's official letterhead and stamp, dated and signed by the bidder's authorized representative and enclosed in the sealed envelope containing the bid.

13. Bid Prices, Currency and Discounts

- 13.1 All lots and items must be listed and priced separately in the Price Schedules.
- 13.2 The prices to be quoted in the Price Schedule shall be net and inclusive of all unconditional discounts offered.
- 13.3 Prices shall be quoted as specified in the Price Schedules included in Section VII, Bidding Forms. Prices shall be entered in the following manner:
 - (a) For Goods:
 - 1) The price of the Goods delivered at the final destination (Project Site) specified in GCC Sub-Clause 1.1(k), including all customs duties and sales and other taxes already paid or payable, transportation, insurance and any other local services required to convey the Goods to their final destination.
 - (b) For Related Services, other than transportation, insurance and other local services required to convey the Goods to their final destination, whenever such Related Services are specified in the Schedule of Requirements:
 - 1) The price of each item comprising the Related Services (inclusive of any applicable taxes)
- 13.4 The Bidder's separation of price components in accordance with ITB Sub-Clause 13.3 above will be solely for the purpose of facilitating the comparison

of bids by the Purchaser and will not in any way limit the Purchaser's right to contract on any of the terms offered.

- 13.5 All prices shall be quoted by Bidders in United States Dollars or Cambodian Riel. Payment to the Supplier under the contract shall be made in the currency of the bid price of the winning supplier in the proportions specified in GCC Sub-Clause 13.3.
- 13.6 Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to adjustment on any account, unless otherwise specified in SCC Clause 12.1. A Bid submitted with an adjustable price quotation, when a fixed price quotation is required, shall be treated as non-responsive and shall be rejected. However, if in accordance with SCC Clause 12.1, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.

14. Documents Establishing the Eligibility and Qualifications of the Bidder

- 14.1 To establish their eligibility in accordance with ITB Clause 4 Eligible Bidders, Bidders shall provide the required information in the Bid Submission Form included in Section VII.
- 14.2 The documentary evidence of the Bidder's qualifications to perform the contract if its bid is accepted shall establish to the Purchaser's satisfaction:
- (a) copies of original documents defining the constitution or legal status, place of registration, and principal place of business evidencing legal status in an eligible source country as defined in GCC Sub-Clause 6.1
 - (b) If indicated in the BDS that, in the case of a Bidder offering to supply goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the goods' Manufacturer or producer to supply the goods in Cambodia;
 - (c) The Bidder shall furnish documentary evidence that it meets the following experience and financial requirements:
 - (i) that the Bidder has satisfactorily completed at least two contracts for supply of similar goods in the preceding three years of not less than 50% of the bid price in each contract.
 - (ii) that the Bidder has completed contracts in the total cumulative amount equal to at least two times the value of the bid price in the preceding two years.
 - (iii) that the Manufacturer of the offered goods, if a different entity from the Bidder, has experience of at least 3 years in the manufacturing of similar goods.
 - (iv) that the Bidder has availability of liquid assets through either:
 - a. access to a line of credit or cash in bank account of an amount at least 50% of the bid price, net of other contractual commitments;

or

- b. credit terms with vendors specifically for the goods to be supplied under the contract, and valid for at least 6 months after the deadline date for submission of bids specified in ITB Clause 21.

Sub-contractors' qualifications shall not be taken into account in establishing the Bidder's qualifications to perform the contract.

- (d) that, in the case of a Bidder not doing business within Cambodia, the Bidder is or will be (if awarded the contract) represented by an Agent in Cambodia equipped and able to carry out the Supplier's maintenance, repair, and spare parts stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications;
- (e) that the Bidder gives to the Purchaser the authority to seek references from the Bidder's bankers and
- (f) that the Bidder meets any additional qualification criteria listed in BDS.

15. Documents Establishing the Conformity of the Goods and Related Services

- 15.1. The documentary evidence of conformity of the Goods and services to the Bidding Documents may be in the form of literature, drawings, and data, and shall consist of
 - (a) Evidence that it is proposing the supply goods and services from an eligible source country as defined in GCC Sub-Clause 6.1
 - (b) a detailed description of the essential technical and performance characteristics of the Goods;
 - (c) a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the Goods for a period to be specified in the BDS, following commencement of the use of the Goods by the Purchaser; and
 - (d) an item-by-item commentary on the Purchaser's Technical Specifications demonstrating substantial responsiveness of the Goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.
 - (e) A declaration of the origin of the goods on the price schedule.
- 15.2. Standards for workmanship, process, material, and equipment, as well as references to brand names or catalogue numbers specified by the Purchaser in the Schedule of Supply, are intended to be descriptive only and not restrictive. The Bidder may offer other standards of quality, brand names, and/or catalogue numbers, provided that it demonstrates, to the Purchaser's satisfaction, that the substitutions ensure substantial equivalence or are superior to those designated in the Technical Specifications.

- 15.3. Bidders shall submit Bids, which comply with the Bidding Documents. Alternative Bids will not be considered.

16.Delivery Terms

- 16.1. The Supplier shall be entirely responsible for the supply, including delivery, of the Goods and Related Services, if any, to the final destination (Project Site).

17.Format and Signing of bids

- 17.1. The Bidder shall prepare one original and three copies of the bid, clearly marking each "ORIGINAL BID" and "COPY OF BID," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 17.2. The original and the copy or copies of the bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to bind the Bidder to the contract. All pages of the bid, except for un-amended printed literature, shall be initialled by the person or persons signing the bid.
- 17.3. The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.
- 17.4. The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Purchaser, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialled by the person or persons signing the Bid.

18.Bid validity

- 18.1. Bids shall remain valid for the period specified in the BDS after the date of bid submission prescribed by the Purchaser, pursuant to **ITB Clause 21**. A bid valid for a shorter period shall be rejected by the Purchaser as nonresponsive.
- 18.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Purchaser may request Bidders to extend the period of validity of their Bids. The request and the responses shall be made in writing. If a Bid Security is requested in accordance with **ITB Clause 19**, it shall also be extended for a corresponding period. A Bidder may refuse the request without forfeiting its Bid Security. A Bidder granting the request shall not be required or permitted to modify its Bid.
- 18.3. If, at the request of the Purchaser, the period of bid validity is extended beyond 60 calendar days, the amounts payable shall be increased by $\frac{1}{4}$ of 1 percent per month, or pro rata part thereof for the period of delay beyond 60 calendar days after the expiry of the initial bid validity, up to the notification of award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.

19.Bid Securing Declaration and Bid Security

- 19.1. At the option of the Purchaser, the Bidder shall furnish as part of its Bid, either:

a Bid-Securing Declaration in original form as specified in the BDS.

or

a Bid Security in the amount described in the BDS

The **BDS** indicates which of the above options (a) or (b) is applicable and required by the Purchaser.

- 19.2. The Bid Securing Declaration when required should be in accordance with the form of Bid Securing Declaration included in Section VII, Bidding Forms shall be valid for 30 calendar days beyond the validity of the Bid.
- 19.3. The Bid Security when required shall, at the Bidder's option, be in the form of a certified cheque or guarantee, from a reputable bank located in Cambodia. Cash is not an acceptable form of Security. If in the form of a bank guarantee the format of the Bid Security should be in accordance with the form of Bid Security (Bank Guarantee) included in Section VII, Bidding Forms. The Bid Security shall be valid for 30 calendar days beyond the validity of the Bid as specified in the BDS
- 19.4. Any Bid not accompanied by an acceptable Bid Security when required or a Bid Securing Declaration when required will be rejected by the Purchaser as non-responsive.
- 19.5. The Bid Security of unsuccessful Bidders shall be returned as promptly as possible and within seven calendar days of the successful Bidder's furnishing of the performance security.
- 19.6. The Bid Security of the successful Bidder shall be returned once the Bidder has signed the Contract and furnished the required Performance Security.
- 19.7. The Bid Security may be forfeited or the Bid Securing Declaration executed:
 - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Form, except as provided in or
 - (b) if the Bidder does not accept the correction of its Bid Price pursuant to ITB Clause 27.
 - (c) if the successful Bidder fails within the specified time to:
 - sign the Contract; or
 - furnish the required performance security within the period specified in ITB 34.
- 19.8. The execution of a bid securing declaration will result in the bidders (including all members of a joint venture) being held ineligible for all contracts let by the RGC irrespective of the funding source for a period of up to three years from the expiry of the Bid Validity, unless, at the bidder's option, the bidder pays an administrative penalty of 2 (two) percent of the total bid amount to the Purchaser.

C. SUBMISSION OF BIDS

20. Sealing and Marking of Bids

- 20.1. The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPIES". These envelopes containing the original and the copies shall then be enclosed in one single envelope.
- 20.2. The inner and outer envelopes shall
- 20.3. Bear the name and address of the Bidder;
- 20.4. be addressed to the Purchaser at the address provided in the BDS;
- 20.5. bear the name and identification number of the Contract as defined in the SCC; and
- 20.6. provide a warning "DO NOT OPEN BEFORE " the specified time and date for Bid opening as defined in the **ITB Sub-Clause 21.1**.
- 20.7. If any envelope is not sealed and marked as required, the Purchaser shall assume no responsibility for the misplacement or premature opening of the bid

21. Deadline for Submission of Bids

- 21.1. Bids shall be delivered to the Purchaser at the address specified in **ITB Sub-Clause 20.2(b)**, and no later than the date and time, indicated in the BDS.
- 21.2. The Purchaser may, at its discretion, extend the deadline for the submission of Bids by issuing an addendum in accordance with **ITB Clause 9**, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline shall then be subject to the new deadline.
- 21.3. Any Bid received by the Purchaser after the deadline prescribed in **ITB Sub-Clause 21.1** or **Clause 21.2**, as applicable, will be rejected and returned unopened to the Bidder.

22. Modification and Withdrawal of Bids

- 22.1. Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in **ITB Sub-Clause 21.1**.
- 22.2. The withdrawal of a Bid between the deadline for submission of bids and within the Bid's validity (and extended validity when a bidder agrees to such) may result in the forfeiture of the Bid Security or execution of the Bid Securing Declaration pursuant to **ITB Clause 19**. No Bid may be modified after the deadline for submission of Bids.
- 22.3. Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with **ITB Clause 20**, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL," as appropriate.

23. Bid Opening

- 23.1. The Purchaser will open the bids, including modifications made pursuant to ITB Clause 22 in the presence of the bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend at the time and in the place specified in the BDS.
- 23.2. Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 22 shall not be opened but returned to the Bidder.
- 23.3. All other envelopes shall be opened one at a time, reading out the name of the bidders and if there is any modification; the Bid Prices, including any unconditional discounts quoted in the Bid Submission Form or in a separate letter of discount referenced and attached to the Bid Submission Form; any alternate offers, if allowed; the presence of the Bid Securing Declaration or Bid Security, if required; and any other details the Purchaser may consider appropriate. Only unconditional discounts and alternative offers, if allowed, read out at the bid opening shall be considered for evaluation. No bids shall be rejected at bid opening except for late bids in accordance with ITB 21.3.
- 23.4. Bids (and modifications) that are not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.
- 23.5. The Purchaser will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with ITB Sub-Clause 23.3 announced by the Purchaser at the opening. The minutes shall be signed in original by all those present at the bid opening. Immediately upon conclusion of the bid opening proceedings, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening. In addition, a copy of the minutes shall promptly be posted at a prominent and freely accessible location outside the office of the Purchaser, and also sent to all those who purchased the bidding documents but were not present at the bid opening.

D. EVALUATION OF BIDS

24. Process to be Confidential

- 24.1. Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced.
- 24.2. Any effort by a Bidder to influence the Purchaser's processing of bids or award decisions may result in the rejection of its Bid.
- 24.3. From the time of bid opening to the time of contract award, if any bidder wishes to contact the Purchaser on any matter related to the bid, it should do so in writing.

25. Clarification of Bids

- 25.1. To assist in the examination, evaluation, and comparison of bids, the Purchaser may, at the Purchaser's discretion, ask any Bidder for clarification of the Bidder's Bid, including breakdowns of unit rates. The request for

clarification and the response shall be in writing or by cable, telex, or facsimile, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Purchaser in the evaluation of the bids in accordance with ITB Clause 27

26. Preliminary Examination of Bids

- 26.1. The Purchaser will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.
- 26.2. If any of the following documents or information is missing from the submitted Bid, the Bid shall be rejected:
 - (a) A Signed (in original) Bid Form, in the format indicated in [Section VII, Bidding Forms](#);
 - (b) Bid Security or Bid Securing Declaration, in accordance with **ITB Clause 19**;
 - (c) The Price Schedule in accordance with **ITB Clause 13**
 - (d) Written confirmation of authorization to commit the Bidder, and
 - (e) Manufacturer's Authorization if required, in accordance with **ITB Sub-Clause 14.2(b)**
- 26.3. If a Bid is not substantially responsive, it will be rejected by the Purchaser, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation
- 26.4. A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one
 - (a) which affects in any substantial way the scope, quality, or performance of the Contract;
 - (b) which limits in any substantial way, inconsistent with the bidding documents, the Purchaser's rights or the Bidder's obligations under the Contract; or
 - (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.

27. Errors and Omissions

- 27.1. Arithmetical errors will be rectified 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. If there is a discrepancy between words and figures, the amount in words will prevail. If the

Supplier does not accept the correction of the errors, its bid will be rejected, and its bid security may be forfeited.

- (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.

27.2. Omissions will be rectified as follows:

- (a) If the item is included in the price schedule with no unit and no total price, the item will be assumed to be included in the cost of other items.
- (b) However, for the purposes of evaluation only, if an item is not included in a bidder's price schedule but was included in the bidding document's Schedule of Requirements and the omission is regarded as a non-material deviation in accordance with ITB Sub-Clause 26.4, the highest unit rate quoted for the same item by other bidders will be used and the total cost for that item added to the bid containing the omission.

28. Evaluation of Responsive Bids

- 28.1. The Purchaser will evaluate and compare the bids which have been determined to be substantially responsive, pursuant to **ITB Sub-Clause 26.4**
- 28.2. To evaluate a Bid, the Purchaser shall only use the factors, methodologies and criteria defined in ITB Clause 28. No other criteria or methodology shall be permitted.
- 28.3. Evaluation shall be done on the basis of Items or Lots, as specified in the BDS; and the Bid Price as quoted in accordance with ITB Clause 13, subject to correction of arithmetic errors in accordance with ITB Clause 27.1 and adjustment for omissions in accordance with ITB Clause 27.2.
- 28.4. If so allowed and indicated in the **BDS** the Purchaser's evaluation of a bid will take into account, in addition to the bid price quoted in accordance with **ITB Clause 13** one or more of the following factors, and quantified in the **BDS**
 - i. delivery schedule offered in the bid;
 - ii. the cost of components, mandatory spare parts, and service, and
 - iii. other specific criteria indicated in the **BDS** and/or in the Technical Specifications
- 28.5. The Purchaser reserves the right to accept or reject any non-material variation or deviation. Variations and deviations and other factors which are in excess

of the requirements of the bidding documents or otherwise result in unsolicited benefits for the Purchaser will not be taken into account in Bid evaluation.

- 28.6. If so specified in the BDS these Bidding Documents shall allow Bidders to quote separate prices for different lots, and shall allow the Purchaser to award one or multiple lots to one or more Bidders. The methodology of evaluation to determine the lowest evaluated lot combinations is specified in the BDS.

E. POST QUALIFICATION AND AWARD

29. Post Qualification

- 29.1. The Purchaser will determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated responsive bid is qualified to perform the contract satisfactorily, in accordance with the criteria listed in ITB Sub-Clause 14.
- 29.2. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Sub-Clause 14.2, to clarifications in accordance with ITB Clause 25.1, as well as such other information as the Purchaser deems necessary and appropriate.
- 29.3. An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's bid, in which event the Purchaser will proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

30. Purchaser's Right to accept or reject any Bid

- 30.1. The Purchaser reserves the right to accept or reject any bid, and to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders.

31. Award Criteria

- 31.1. Subject to **ITB Clause 28**, the Purchaser will award the contract to the successful Bidder whose bid has been determined to be substantially responsive and has been determined to be the lowest evaluated bid, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

32. Purchaser's right to vary quantities

- 32.1. The Purchaser reserves the right at the time of contract award to increase or decrease, by fifteen percent (15%) of the overall bid value, the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.

33. Notification of Award and Signing of the Contract

- 33.1. Prior to the expiration of the period of bid validity, the Purchaser will notify the successful Bidder in writing by hand delivered letter or facsimile, that its bid has been accepted

- 33.2. The notification of award will constitute the formation of the Contract.
- 33.3. At the time of notification of award, the Purchaser will send the successful bidder the Contract Form provided in those Bidding Documents, incorporating all agreements between the parties.
- 33.4. Within fourteen (14) calendar days of receipt of such Contract Form the successful bidder shall sign and date the Contract and return it to the Purchaser.

34. Performance Security

- 34.1 Within fourteen (14) calendar days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the Performance Security in accordance with the GCC, using for that purpose the Performance Security Form included in Section VIII, Contract Forms.
- 34.2 The Performance Security in the form of a Bank Guarantee shall be issued by a reputable bank located in Cambodia and acceptable to the Purchaser.
- 34.3 Failure of the successful Bidder to comply with the requirements of ITB Clause 34 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security or execution of the Bid Securing Declaration.
- 34.4 Upon receipt of the Performance Security, the Purchaser will promptly notify each unsuccessful bidder of the results of the bidding and return their Bid Securities or Bid Securing Declarations pursuant to ITB Sub-Clause 19.5.

35. Contract Effectiveness

- 35.1. The contract will become effective and all delivery periods, liabilities and obligations will be calculated from the following date:
 - (a) For contracts where an advance payment is requested, from the date of the Supplier's receipt of the advance payment, or
 - (b) For contracts funded by an irrevocable letter of credit, from the date of advisement of the letter of credit to the Supplier
 - (c) For contracts where no advance payment and no letter of credit is issued from the date of the signature by both parties of the contract.
- 35.2. When a contract allows for both an advance payment and payment by letter of credit the effective date shall be calculated from the Supplier's receipt of the advance payment.

36. Debriefing

- 36.1. After the award of contract has been announced an unsuccessful bidder has the right to request a debriefing to ascertain why its bid was unsuccessful and the Employer the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection.
- 36.2. Within 14 calendar days of a bidder's request for Debriefing, the Debriefing will either be delivered in writing by the Purchaser or a meeting held chaired by a representative of the Purchaser at the discretion of the Purchaser. If a

meeting is held it will be minuted and minutes signed by both parties and a copy of the minutes issued to the bidder.

37.Complaints

- 37.1. A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints received during the evaluation period will be reviewed by the Employer and a response issued only after the evaluation is completed.
- 37.2. Complaints shall be addressed to the Project Manager named in the BDS. The Project Manager will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint.
- 37.3. In the event that the response from the Project Manager does not satisfy the unsuccessful bidder or there is no response the complaint it should be referred to the Department of Public Procurement, Ministry of Economy and Finance, 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia with a copy sent to the representatives of the Development Partner indicated in the BDS. The Department of Public Procurement shall respond to the complaint within 14 calendar days. This is without prejudice to any other recourse that a bidder may choose.

38.Publication of Award (This Clause will become Clause No. 38)

- 38.1. The Purchaser shall
 - (a) notify in writing all participating bidders of the results of the bid evaluation promptly after the contract award has been notified to the successful bidder, and
 - (b) publish in a national newspaper, promptly at the end of each quarter of the calendar year, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Purchaser.

Section II, Bid Data Sheet

A. General	
ITB 1.1	The name and identification number of the procurement are: <i>[insert name and identification number]</i>
ITB 2.1	The name of the Project is <i>[insert name of project]</i> The amount of the Project is: <i>[insert currency and amount]</i>
ITB 5.1	The limit for sub-contractors is <i>[insert percentage, usually no more than 30%]</i>
ITB 8.1	For Clarification of bid purposes only, the Purchaser's address is: Attention: <i>[insert name and room number of Project Officer]</i> Address: <i>[insert street name and number]</i> <i>[insert floor and room number, if applicable]</i> City: <i>[insert name of city or town]</i> Cambodia Telephone: <i>[insert telephone number including country and city codes]</i> Facsimile number: <i>[insert fax number including country and city codes]</i>
ITB 10.1	State "English" if the bidding document is issued in English; otherwise "The documents are in Khmer"
ITB 14.2(a)	For national firms, state the patent and tax registration requirements
ITB 14.2(b)	State whether a manufacturer's authorization form is required. In case of a bidder who is not the manufacturer; it can submit either an MAL from the Manufacturer or a General Certificate issued by the Manufacturer's authorized Distributor certifying that the bidder is an authorized Dealer//Retailer for the manufactured goods.
ITB 14.2(f)	Insert any other qualification criteria.
ITB 15.1(c)	Period of time the Goods are expected to be functioning (for the purpose of spare parts): <i>[insert duration or state "Not Applicable"]</i>
ITB 18.1	The bid validity period shall be 60 calendar days.
ITB 19.1	<i>[Select one of the following two options. If the procurement is partially or wholly funded from external resources, such as by the World Bank or the Asian Development Bank, select option (a). If the procurement is wholly funded by RGC, then either one of options (a) or (b) can be selected].</i> (a) Bid shall include a Bid-Securing Declaration using the form

	<p>included in Section VII, Bidding Forms;</p> <p>OR</p> <p>(b) Bid shall include a Bid Security issued by a reputable bank in Cambodia using the form for bid security included in Section VII, Bidding Forms. The Bid Security shall be <i>[insert amount in US. It should be the same as provided in the Invitation to Bid]</i>. Generally bid security declaration is to be used. In exception cases bid security may be needed.</p>
ITB 20.4(b)	<p>For bid submission purposes, the Purchaser's address is:</p> <p>Attention: <i>[insert full name of person, if applicable, or insert name of the Project Officer]</i></p> <p>Address: <i>[insert street name and number]</i></p> <p>Floor-Room number: <i>[insert floor and room number, if applicable]</i> <i>[important to avoid delays or misplacement of bids]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>Cambodia</p>
ITB 21.1	<p>The deadline for the submission of bids is:</p> <p>Date: <i>[insert day, month, and year, for example . 15 June, 2011]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m., for example . 10:30 a.m.]</i></p>
ITB 23.1	<p>The bid opening shall take place at:</p> <p>Street Address: <i>[insert street address and number]</i></p> <p>Floor/ Room number: <i>[insert floor and room number, if applicable]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>Cambodia</p> <p>Date: <i>[insert day, month, and year, i.e. 15 June, 2011]</i></p> <p>Time: <i>[insert time, and identify if a.m. or p.m. i.e. 10:30 a.m.]</i></p> <p><i>The date and time of bid opening should be identical to the date and time stated as the deadline for submission of bids.</i></p>
ITB 28.3	<p>Bids will be evaluated on an item-wise or lot-wise basis <i>[select which is applicable]</i></p>
ITB 28.4 (a)	<p>State either:</p> <p>"Not applicable - Time is of the essence, the Purchaser requires that the goods under the Invitation for Bids shall be delivered to site at the time specified in the Schedule of Requirements. Bids that offer delivery beyond the time specified will be rejected as non-responsive."</p> <p>Or, select the following factor for evaluation:</p>

	<p>“The delivery offered in a bidders bid will be evaluated as follows:</p> <p>The goods covered under this invitation are required to be delivered to site within an acceptable range of weeks specified in the Schedule of Requirements. No credit will be given to earlier deliveries, and bids offering delivery beyond this range will be treated as non-responsive. Within this acceptable range, an adjustment of 1/10 of one percent per day will be added for evaluation to the bid price of bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.”</p>
ITB 28.4 (b)	<p><i>State either “Not applicable” or select the following factor for evaluation</i></p> <p>“The cost of mandatory spare parts will be evaluated as follows:</p> <p>The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during <i>[insert period of operation]</i>, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each bid, will be added to the bid price.”</p>
ITB 28.4(c)	<p><i>State either “Not Applicable” or, list here any additional evaluation.</i></p>
ITB 28.6	<p>Bidders <i>[insert “shall “or “shall not”]</i> be allowed to quote separate prices for one or more lots.</p> <p><i>If bidders are allowed to quote for separate lots retain the following wording:</i></p> <p>“The Purchaser shall award contract(s) for multiple lots to the Bidder that offers the lowest evaluated combination(s) of bids and meets the post-qualification criteria.</p> <p>The Purchaser’s evaluation shall take into account:</p> <p>(i) the lowest-evaluated bid for each lot and</p> <p>(ii) Any price reduction per lot and the methodology for its application as offered by the Bidder in its bid”</p>
ITB37.2	<p>The Project Manager is <i>[Insert name and address including telephone, fax and email]</i></p>
ITB 37.3	<p>The Project/Task Team Leader is <i>[Insert project name and address including telephone, fax and email]</i></p> <p><i>In case if the Development Partner has a Cambodia Office:</i></p> <p>The Country Director is <i>[Insert name and address including telephone, fax and email]</i></p>

Section III, General Conditions of Contract

Definitions	30
Application	30
Fraud and Corruption for All Procurement Methods	30
Language	32
Joint Ventures	32
Eligibility	32
Notices	32
Applicable Law	32
Resolution of Disputes	32
Scope of Supply	33
Delivery and Documents	33
Contract Price	33
Payment.....	33
Taxes and Duties	34
Risk and Title	34
Permits, Approvals and Licenses.....	34
Performance Security	34
Confidentiality	34
Subcontracts.....	35
Standards.....	35
Packing and marking.....	35
Inspection and tests	35
Liquidated damages	36
Warranty	36
Patent Indemnity	36
Limitation of Liability.....	37
Force majeure.....	37
Change Orders.....	37
Extension of Time.....	38
Spare Parts.....	38
Termination for Default	38
Termination for Insolvency	39
Termination for Convenience.....	39
Assignment	39
Transportation	39
Insurance	39

1. Definitions

1.1. In this Contract, the following terms shall be interpreted as indicated:

- (a) "The Contract" means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein as named and referenced in the SCC.
- (b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
- (c) "The Goods" means all of the equipment, machinery, and/or other materials which the Supplier is required to supply to the Purchaser under the Contract.
- (d) "The Services" means those services ancillary to the supply of the Goods, such as transportation and insurance, and any other incidental services, such as installation, commissioning, provision of technical assistance, training, and other such obligations of the Supplier covered under the Contract.
- (e) "GCC" means the General Conditions of Contract contained in this section.
- (f) "SCC" means the Special Conditions of Contract.
- (g) "The Purchaser" means the organization purchasing the Goods, as named in SCC.
- (h) "The Purchaser's country" is Cambodia.
- (i) "The Supplier" means the individual or firm supplying the Goods and Services under this Contract and named in SCC.
- (j) "The Development partner" mean the organization named in the SCC
- (k) "The Project Site," where applicable, means the place or places named in SCC.
- (l) "Day" means calendar day

2. Application

2.1. These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.

3. Fraud and Corruption for All Procurement Methods

3.1. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of

ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;

- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

4. Language

- 4.1. The language of the Contract is English unless otherwise stated in the SCC.

5. Joint Ventures

- 5.1. If the Supplier is a joint venture, consortium, or association, all of the parties shall be jointly and severally liable to the Purchaser for the fulfillment of the provisions of the Contract and shall designate one party to act as a leader with authority to bind the joint venture, consortium, or association. The composition or the constitution of the joint venture, consortium, or association shall not be altered without the prior consent of the Purchaser.

6. Eligibility

- 6.1. Eligible suppliers, subcontractors, materials, equipment and services are those defined in the SCC.

7. Notices

- 7.1. Any Notice given by one party to the other pursuant to the Contract shall be in writing to the address specified in the SCC. The term "in writing" means communicated in written form with proof of receipt.
- 7.2. A Notice shall be effective when delivered or on the Notice's effective date, whichever is later.

8. Applicable Law

- 8.1. The Contract shall be governed by and interpreted in accordance with the laws of Cambodia.

9. Resolution of Disputes

- 9.1. If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

- 9.2. The Cambodian Chamber of Commerce (CCC) may be asked by either party to provide the CV's of three available adjudicators, none of whom will be nationals of the Supplier's country should that country be other than Cambodia. Each party shall then strike off the name of one of the proposed adjudicators and the remaining one shall be appointed. If both strike out the same then another round shall be entered into until there is only one remaining adjudicator.
- 9.3. The Adjudicator shall be paid by the hour at the rate proposed by the CCC, together with reasonable expenses to cover accommodation, travel and communications as necessary. The cost shall be divided equally between the Purchaser and Supplier, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 calendar days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 calendar days, the Adjudicator's decision will be final and binding.
- 9.4. All disputes arising in connection with the present Contract that cannot be resolved to the satisfaction of either one of the parties through adjudication may be referred to and settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The ruling of the Arbitrator shall be binding on both parties.
- 9.5. Notwithstanding any adjudication or arbitration proceedings no party shall commit an anticipatory breach of contract.

10.Scope of Supply

- 10.1. The Goods and Related Services to be supplied shall be as specified in Section VI, Schedule of Requirements.

11.Delivery and Documents

- 11.1. The Supplier shall be entirely responsible for the supply, including delivery, of the Goods and Related Services, if any, at the final destination (Project Site).
- 11.2. Delivery of the goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier pursuant are specified in the SCC.

12.Contract Price

- 12.1. Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, with the exception of any price adjustments in the Purchaser's request for bid validity extension in accordance with **ITB Sub-Clause 18.3** or the Purchaser exercising its right to vary quantities at the time of award in accordance with ITB Clause 32 as the case may be.

13.Payment

- 13.1. The method and conditions of payment are **specified in SCC**
- 13.2. The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant to **GCC Clause 11.2**, and upon fulfillment of other obligations stipulated in the Contract.

- 13.3. Payment shall be made in the currency of the bid price of the winning supplier. If so specified in the SCC, the amounts of each payment will be adjusted, before deducting for Advance Payment, by applying the respective price adjustment factor to the payment amounts due.

14. Taxes and Duties

- 14.1. A Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.

15. Risk and Title

- 15.1. Risk and title of for the goods shall pass upon delivery to the project site as described in the **GCC Clause 1.1. (k)** and defined in the SCC.

16. Permits, Approvals and Licenses

Whenever the supply of Goods and Related Services requires that the Supplier obtain permits, approvals, and import and other licenses from local public authorities, the Purchaser shall, if so required by the Supplier, make its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

17. Performance Security

- 17.1. The Performance Security shall be provided to the Purchaser no later than 14 calendar days after the Supplier's receipt of the Notification of award and shall be issued in an amount of 10% of the Contract Value be an unconditional bank guarantee issued by a Cambodian Bank in the form described in [Section VIII, Contract Forms](#) or a cashier/managers check from a Cambodian Bank at the Supplier's option. The Performance Security shall be valid until a date 1 calendar month beyond the date of final delivery date of the goods. The currency shall be that of the Contract.
- 17.2. Once the Supplier's warranty obligations as described in GCC clause 24 begin and prior to the expiry of the original performance security, the original Performance Security will be reduced to an amount representing 5% of the contract value and the amended Performance Security will remain valid until a date 30 calendar days beyond the date of expiry of the Supplier's warranty.
- 17.3. The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

18. Confidentiality

- 18.1. Subject to GCC Clause 3 the Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 18.2. The provisions of this Clause shall survive completion or termination, for whatever reason, of the Contract.

19.Subcontracts

- 19.1. The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the Supplier from any liability or obligation under the Contract.
- 19.2. Subcontracts shall comply with the provisions of **GCC Clauses 3 and 6.**

20.Standards

- 20.1. The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.

21.Packing and marking

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

22.Inspection and tests

- 22.1. The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Purchaser. SCC and the Technical Specifications shall specify what inspections and tests the Purchaser requires, if any and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 22.2. The Purchaser bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.
- 22.3. The Purchaser may require the Supplier to carry out any test and/or inspection not required by the Contract but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impedes the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.
- 22.4. Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser. The costs of any repeated tests and inspections necessitated

by a failure of the goods to pass inspection will be to the Supplier's account and deducted from the sums due to the Supplier and the contract value reduced accordingly.

- 22.5. Any inspections and tests undertaken in no way relieve the Supplier of any of its obligations under the Contract.

23. Liquidated damages

- 23.1. With the exception of force majeure events as described in **GCC Clause 27** and subject to contract amendments described in **GCC Clause 28** if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, one tenth of one percent per day subject to a maximum of ten percent of the contract price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to **GCC Clause 31**.

24. Warranty

- 24.1. The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract.
- 24.2. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.
- 24.3. This warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract or any other time period indicated in the SCC.
- 24.4. The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.
- 24.5. Within 21 calendar days of receipt of such Notice, the Supplier shall, shall expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Purchaser.
- 24.6. If the Supplier, having been notified, fails to remedy the defect(s) within 21 calendar days, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.
- 24.7. Delays in remedial action beyond 21 calendar days shall be subject to liquidated damages at the rate described in **GCC Clause 23** without prejudice to any other rights or remedies, which the Purchaser may have against the Supplier under the Contract.

25. Patent Indemnity

- 25.1. The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Cambodia.

26. Limitation of Liability

- 26.1. Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to **GCC Clause 25**
- (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and
 - (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

27. Force majeure

- 27.1. The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 27.2. For purposes of this Clause, "Force Majeure" means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

28. Change Orders

- 28.1. The Purchaser may at any time, by a written order given to the Supplier pursuant to **GCC Clause 7**, make changes within the general scope of the Contract in any one or more of the following:
- (a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;
 - (b) the method of shipment or packing;
 - (c) the place of delivery; and/or
 - (d) the Services to be provided by the Supplier
- 28.2. If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) calendar days from the date of the Supplier's receipt of the Purchaser's change order.
- 28.3. Subject to **GCC Clause 7**, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties

29. Extension of Time

- 29.1. If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of related Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.
- 29.2. Throughout the period of contract performance up to and including the Purchaser's acceptance of the goods the Supplier will provide monthly progress reports on the status of manufacturer, assembly, packing, consolidation and shipment as appropriate.

30. Spare Parts

- 30.1. As specified in SCC, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:
- (a) such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
 - (b) in the event of termination of production of the spare parts:
 - (1) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
 - (2) following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

31. Termination for Default

- 31.1. The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:
- (a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to **GCC Clause 29**; or
 - (b) if the Supplier fails to perform any other obligation(s) under the Contract.
 - (c) if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract as defined under GCC clause 3.1

32. Termination for Insolvency

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

33. Termination for Convenience

- 33.1. The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Purchaser's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.
- 33.2. The Goods that are complete and ready for shipment within thirty (30) calendar days after the Supplier's receipt of notice of termination shall be accepted by the Purchaser at the Contract terms and prices. For the remaining Goods, the Purchaser may elect:
- (a) to have any portion completed and delivered at the Contract terms and prices; and/or
 - (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.

34. Assignment

- 34.1. The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Purchaser's prior written consent

35. Transportation

- 35.1. The Supplier is required under the Contract to transport the Goods to the final destination (Project Site). Transport to such final destination including insurance and storage, as specified in the Contract, shall be arranged by the Supplier, and related costs are deemed to be included in the Contract Price. The Supplier shall be free to use transportation through carriers registered in any eligible country, in accordance with GCC sub-clause 6.1

36. Insurance

- 36.1. The Goods supplied under the Contract shall be fully insured in US Dollars against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery at the final destination (Project Site). The insurance shall be obtained by the Supplier in an amount equal to 110% of the value of the goods from "warehouse to warehouse" (final destination) on "All Risk" basis including War Risks and Strikes. The Supplier shall be free to provide insurance through firms registered in any eligible country, in accordance with GCC sub-clause 6.1

Section IV, Special Conditions of Contract

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

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

1.1(a)	<p><i>Insert the name and reference of the contract.</i></p> <p>And comprises of the following documents</p> <ul style="list-style-type: none"> (a) The Contract Agreement (b) Special Conditions of Contract (c) General Conditions of Contract (d) Technical Requirements (including Schedule of Requirements and Technical Specifications) (e) The Supplier's Bid and original Price Schedules (f) The Purchaser's Notification of Award (g) The Instructions to Bidders (h) <i>Insert here any other documents that will form part of the Contract such as drawings</i>
GCC 1.1(g)	The Purchaser is: <i>[insert complete legal name of the Purchaser]</i>
GCC 1.1 (i)	The Supplier is: <i>[insert complete legal name of the Supplier]</i>
GCC 1.1(j)	The Development Partner is: <i>[insert name]</i>
GCC 1.1(k)	The Project Site(s)/Final Destination(s) is/are: <i>[insert name(s) and detailed information on the location(s) of the site(s)]</i>
GCC 4.1	<i>State "English" if the bidding document is issued in English otherwise leave blank</i>
GCC 6.1	<p><i>Insert the following Para. 1 ONLY if the procurement is funded by the World Bank or by the ADB</i></p> <p>1. The Supplier, and all parties constituting the Supplier, shall have the nationality of an eligible country. The Supplier shall be deemed to have the nationality of a country if the Supplier is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including related services.</p> <p>The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries, in accordance with the</p>

countries listed below and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Contractors may be required to provide evidence of the origin of materials, equipment and services.

For purposes of this Clause, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the related services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components."

Depending on whether the procurement is funded by WB or by ADB, select and insert the applicable Para. 2 :

[2. For WB, Eligible Countries are:

The World Bank permits firms and individuals from all countries to offer goods, works and services for World Bank financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:

(a) as a matter of law or official regulation, the Borrower Country prohibits commercial relations with that Country, provided that the World Bank is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required, or

(b) by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's Country prohibits any import of goods from that Country or any payments to persons or entities in that Country.]

[2. For ADB, Eligible Countries are:

[Insert here the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB's web page at www.adb.org.]

Add the following para. 3 only when ADB or WB Special resources are being used that place specific limitations on eligibility of certain countries :

3. In addition, the following countries are ineligible for this bidding:

Insert the list of ADB or WB developed member countries which have not contributed to such special resources and therefore are excluded from this bidding.

In case of RGC wholly funded projects

All Suppliers and Goods are eligible except for Suppliers who have been sanctioned or debarred from participation in bidding in RGC financed projects/programs

GCC 7.1	<p>The Purchasers address for notices is:</p> <p>Attention: <i>[insert full name and title of person]</i></p> <p>Street Address: <i>[insert street address and number]</i></p> <p>Floor/ Room number: <i>[insert floor and room number, if applicable]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>Cambodia</p> <p>Telephone: <i>[include telephone number, including country and city codes]</i></p> <p>Facsimile number: <i>[insert facsimile number, including country and city codes]</i></p> <p>Electronic mail address: <i>[insert e-mail address]</i></p> <p>The Supplier's address for notices is</p> <p>Attention: <i>[insert full name and title of person]</i></p> <p>Street Address: <i>[insert street address and number]</i></p> <p>Floor/ Room number: <i>[insert floor and room number, if applicable]</i></p> <p>City: <i>[insert name of city or town]</i></p> <p>Country <i>[insert country]</i></p> <p>Telephone: <i>[include telephone number, including country and city codes]</i></p> <p>Facsimile number: <i>[insert facsimile number, including country and city codes]</i></p> <p>Electronic mail address: <i>[insert e-mail address]</i></p>
GCC 11.2	<p><i>Sample provision</i></p> <p>Details of Documents to be furnished by the Supplier are <i>[insert shipping details and other documents]</i>.</p> <ol style="list-style-type: none"> (1) <i>[insert number]</i> copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount; (2) Original receipt issued by the Purchaser's representative <i>[insert name and titles with contact details of the department or individual authorized to receive the goods ate the Project Site]</i> at the project site ; (3) Manufacturer's or Supplier's warranty certificate; and (4) Certificate of origin.
GCC 12.1	<p><i>State either "No adjustments will be made", if the Contract is less than 18 months duration</i></p>

	<p><i>Or insert the following if the Contract is equal to or more than 18 months duration:</i></p> <p><i>“The payment shall be adjusted by increasing the payment amount by one third of one percent for each entire month starting from the nineteenth month after the date of contract signature.”</i></p>
GCC 13.1	<p><i>Sample provision</i></p> <p>The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <ol style="list-style-type: none"> (1) Advance Payment: Ten (10) percent of the Contract Price shall be paid within fourteen (14) calendar days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the date of the delivery of Goods specified in the Contract and in the form provided in the bidding documents or another form acceptable to the Purchaser. (2) Delivery to Project Site: Eighty (80) percent of the Contract Price of the Goods delivered shall be paid, upon submission of documents specified in GCC Clause 12. (3) On Acceptance: Ten (10) percent of the Contract Price of Goods received shall be paid within thirty (30) calendar days of receipt of the Goods upon submission of claim supported by the acceptance certificate issued by the Purchaser. <p>The Supplier may forgo the advance payment at its own option in which instance the payment upon delivery will be increased to ninety (90) percent of the contract price of the goods delivered and in this case no performance security in line with Clause 17.1 will be required.</p>
GCC 13.3	<p>Proportion of the currencies for Payment: Payment shall be made in US Dollars and Cambodian Riel according to the following proportions:</p> <p>In US Dollars:.....% <i>[for externally financed contracts, insert the applicable percentage of reimbursement by the Development Partner as specified in the loan/credit/grant agreement]</i></p> <p>In Cambodian Riel:.....% <i>[For externally financed contracts, insert the balance percentage representing the government counterpart contribution].</i></p>
GCC 15.1	<p>Risk and title shall pass on the acceptance of the Goods at <i>[Insert name(s) and detailed information on the location(s) of the site(s)]</i></p>
GCC 21.2	<p>The packing, marking and documentation within and outside the packages shall be: <i>[insert in detail the type of packing required, the markings in the packing and all documentation required]</i></p>
GCC 22.1	<p>The inspections and tests shall be: <i>[insert nature, frequency, procedures for</i></p>

	<p><i>carrying out the inspections and tests] or state</i></p> <p>“No tests are planned, however this in no way limits the Purchasers right to test any and all goods subject to the provisions of GCC Clause 22.3”</p>
GCC 24.3	<p>In partial modification of GCC Clause 24.3 the warranty period will be <i>[insert period if not 12 months, or delete reference to this clause from the SCCs]</i></p>
GCC 30.1	<p><i>Sample provision</i></p> <p>The Supplier shall carry sufficient inventories to assure ex-stock supply of consumable spares for the Goods. Other spare parts and components shall be supplied as promptly as possible, but in any case within one month of placing the order and opening the letter of credit.</p> <p><i>Delete this reference to this clause from the SCC if not applicable.</i></p>

Section V, Specifications & Statement of Compliance

Notes for Preparing the Technical Specifications

A set of precise and clear specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Entity without qualifying their bids. The specifications must accurately communicate the technical characteristics of both the goods and any related services that are required. In the context of Competitive Bidding, the specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done will the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of bid evaluation facilitated. The specifications should require that all goods and materials to be incorporated in the goods be new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided for otherwise in the contract.

Samples of specifications from previous similar procurements are useful in this respect. The use of metric units is encouraged. Depending on the complexity of the goods and the repetitiveness of the type of procurement, it may be advantageous to standardize the General Technical Specifications and incorporate them in a separate subsection. The General Technical Specifications should cover all classes of workmanship, materials, and equipment commonly involved in manufacturing similar goods. Deletions or addenda should then adapt the General Technical Specifications to the particular procurement.

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

Sample Clause: Equivalency of Standards and Codes

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

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

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

Bidders are required to also as part of the technical specifications complete their statement of compliance demonstrating how the items comply with the specification.

Technical Specifications

Item	Specification	Statement of Compliance Bidders must state here either “Comply” of “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” of must be supported by evidence in a bidders bid and cross-referenced to that evidence. Evidence shall be in the form of manufacturer’s un-amended sales literature, unconditional statements of specification and compliance issued by the manufacturer, samples, independent test data etc. as appropriate. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the bid under evaluation liable for rejection. A statement either in the bidders statement of compliance or the supporting evidence that is found to be false either during evaluation or the execution of the contract may be regarded as fraudulent and render the bidder or supplier liable for prosecution subject to the provisions of ITB Clause 3 Fraud and Corruption and GCC Clause 31.
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Section VI, Schedule of Requirements

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

The objective of the Schedule of Requirements is to provide sufficient information to enable bidders to prepare their bids efficiently and accurately, in particular, the Price Schedule, for which a form is provided in Section IV. In addition, the Schedule of Requirements, together with the Price Schedule, should serve as a basis in the event of quantity variation at the time of award of contract pursuant to ITB Clause 32, Purchaser's Right to Vary Quantities.

The date or period for delivery should be carefully specified, noting that delivery periods will only commence from the date of contract effectiveness as described in ITB Clause 35, Contract Effectiveness.

Any services required should also be included in both the Schedule of Requirements and the Technical Specifications

1.1 Schedule of Requirements

[The Purchaser shall fill in this table, with the exception of the column "Bidder's offered Delivery date" to be filled by the Bidder]

Line Item No.	Description of Goods	Quantity	Physical unit	Delivery Destination as specified in GCC 1.1 (kl)	Delivered to project site by		
					Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [to be provided by the bidder]
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of calendar days following the date of effectiveness the Contract]</i>	<i>[insert the number of calendar days following the date of effectiveness the Contract]</i>	<i>[insert the number of calendar days following the date of effectiveness the Contract]</i>

1.2 List of Related Services and Completion Schedule

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

Service	Description of Service	Quantity ²	Physical Unit	Place where Services shall be performed	Final Completion Date(s) of Services
<i>[insert Service No]</i>	<i>[insert description of Related Services]</i>	<i>[insert quantity of items to be supplied]</i>	<i>[insert physical unit for the items]</i>	<i>[insert name of the Place]</i>	<i>[insert the number of calendar days following the date of effectiveness the Contract]</i>

² If applicable

Section VII, Bidding Forms

Bidder Information Form.....	51
Bid Submission Form.....	52
Statement on Ethical Conduct and Fraud and Corruption.....	54
Price and Completion Schedule – Goods	55
Price and Completion Schedule - Related Services.....	56
Manufacturer’s Authorization	57
Bid Security (Bank Guarantee).....	58
Bid-Securing Declaration	60

Bidder Information Form

[The Bidder shall fill in this Form in accordance with the instructions indicated below. In case of Joint Venture, Consortium, Association, the required information should be provided for each party including subcontractors. No alterations to its format shall be permitted and no substitutions shall be accepted.]

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

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

Page _____ of _____ pages

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

Bid Submission Form

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

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

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

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

- (a) We have examined and have no reservations to the Bidding Documents, including Addenda No.: *[insert the number and issuing date of each Addenda, if any]*;
- (b) We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified in the Schedule of Requirements the following Goods and Related Services *[insert a brief description of the Goods and Related Services]*;
- (c) The total price of our Bid, excluding any discounts offered in item (d) below, is: *[insert the total bid price in words and figures]*;
- (d) The discounts offered and the methodology for their application are: (if provided in separate letter as per ITB 12.3 state "shown on the letter of discount attached to this Bid Submission Form")
- (e) Our bid shall be valid for the period of time specified in ITB Sub-Clause 18.1, from the date fixed for the bid submission deadline in accordance with ITB Sub-Clause 21.1, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (f) If our bid is accepted, we commit to obtain a performance security in accordance with ITB Clause 34 and GCC Clause 17 for the due performance of the Contract;
- (g) We, including any subcontractors or suppliers for any part of the contract, have nationality from eligible countries *[insert the nationality of the Bidder, including that of all parties that comprise the Bidder, if the Bidder is a JV, and the nationality each subcontractor and supplier]*

- (h) We have no conflict of interest in accordance with ITB Sub-Clause 4.3;
- (i) Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by the RGC or the Development Partner, under the Purchaser's country laws or official regulations, in accordance with ITB Sub-Clause 4.4;
- (j) The following commissions, gratuities, or fees have been paid or are to be paid with respect to the bidding process or execution of the Contract: *[insert complete name of each Recipient, its full address, the reason for which each commission or gratuity was paid and the amount and currency of each such commission or gratuity]*

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

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

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

Signed: *[insert signature of person authorized by the Bidder to sign the bid submission form, and whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

The **Bidder** shall fill in and submit this Bid form with the Bid.

Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

- (1) Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
- (2) Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
- (3) That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
- (4) We understand our obligation to allow the Government or the Development Partner to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
- (5) That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
- (6) We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the Development Partner and/or other sources for a period to be determined by them.

Signed: *[signature of person authorized by the Bidder to sign the bid submission form and whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

Price and Completion Schedule – Goods

Date: _____

NCB No: _____

Page No _____ of _____

1	2	3	4	5	6	7
Item No	Description of Goods	Delivery Date	Country of origin	Quantity and Physical Unit	Unit price per item delivered at Final Destination (Project Site) ³	Total price per item (cols. 5 x 6) delivered at Final Destination (Project Site)
<i>[insert number of the item]</i>	<i>[insert name of Goods]</i>	<i>[insert quoted Delivery Date]</i>	<i>Insert the country of origin of the Goods</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item in [state currency]]</i>	<i>[insert total price per item in [state currency]]</i>
Name of Bidder <i>[insert complete name of Bidder and affix seal of Bidder]</i> Signature of Bidder <i>[signature of person signing the Bid]</i> Date <i>[insert date]</i>						<i>[Insert total price of Goods]</i>

³ Currency to be used is US Dollars or Cambodian Riel. The price shall include all customs duties and sales and other taxes already paid or payable, transportation, insurances, and any other local costs for delivery of the goods up to final destination.

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

Price and Completion Schedule - Related Services

Date: _____						
NCB No: _____						
Page No _____ of _____						
1	2	3	4	5	6	7
Service N°	Description of Services (other than transportation, insurance and other local services required to convey the goods to their final destination)	Country of Origin	Delivery Date at Final destination (Project Site)	Quantity and physical unit	Unit price	Total Price per Service (Col. 5*6)
<i>[insert number of the Service]</i>	<i>[insert name of Services]</i>	<i>[insert country of origin of the Services]</i>	<i>[insert delivery date at place of final destination per Service]</i>	<i>[insert number of units to be supplied and name of the physical unit]</i>	<i>[insert unit price per item]</i>	<i>[insert total price per item]</i>
Total Price Related Services						<i>[insert total price of Related Services]</i>
Name of Bidder <i>[insert complete name of Bidder and affix seal of Bidder]</i> Signature of Bidder <i>[signature of person signing the Bid]</i> Date <i>[insert date]</i>				Total Bid Price (Goods and Related Services)		<i>[insert total Bid Price of Goods and Related Services]</i>

Manufacturer's Authorization

*[If indicated in ITB Sub-Clause 14.2(b) and required in the BDS, 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**. In case the bidder is a authorized dealer/retailer of a Distributor representing the Manufacturer, a general certificate issued by the authorized Distributor must be submitted.]*

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

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

To: *[insert complete name and address of Purchaser]*

WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 24 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]*

Bid Security (Bank Guarantee)

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

[Name of Bank and Address of Issuing Branch or Office]

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

Date: *[insert date]*

BID GUARANTEE No.: *[insert bid Guarantee number]*

We have been informed that *[insert name of the Bidder⁴]* (hereinafter called "the Bidder") will be submitting to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of Contract]*.

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

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

- a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Bid Submission Form; or
- b) do not accept the correction of errors in accordance with the Instructions to Bidders (ITB 27.1) of the Bidding Documents, or
- c) having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity as stated in the Bid Submission Form or extended by the Employer at any time prior to expiration of this period, (i) fail or refuse to execute the Contract, if required, (ii) fail to accept arithmetic corrections of its Bid price in accordance with ITB 28, or (iii) fail or refuse to furnish the Performance Security, in accordance with the ITB Clause 34.

This Guarantee will expire: (a) if the Bidder is the successful Bidder, upon our receipt of copies of the Contract signed by the Bidder and the Performance Security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful Bidder upon earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder, or (ii) on..... *[the date, 30 calendar days after the expiration of the Bidder's Bid.]*.

⁴ *[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 VII "Bidding Forms," Bidder Information Form Item 7]*

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

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

[Signature(s) of authorized bank's representative(s) and official Seal of the bank]

Bid-Securing Declaration

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

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

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

To: *[insert complete name of Purchaser]*

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a Bid-Securing Declaration.
2. We accept that we will automatically be suspended from being eligible for bidding in any contract with the Purchaser for the period of time of 3 years starting from expiry of the bid validity of our Bid or will pay to the Purchaser two percent (2%) of the total bid amount as penalty, if we are in breach of our obligation(s) under the bid conditions, as specified below:
 - (a) We have withdrawn our Bid during the period of bid validity specified by us in the Bidding Data Sheet; or
 - (b) Having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, we (i) fail or refuse to execute the Contract, if required, (ii) fail to accept arithmetic corrections of its Bid price in accordance with ITB 27.1, or (iii) fail or refuse to furnish the Performance Security, in accordance with the ITB Clause 34
3. We understand this Bid Securing Declaration shall expire if we are not the successful Bidder on _____ [the date, 30 calendar days after the expiry of the validity of our Bid].
4. We understand that if we are a Joint Venture, the Bid Securing Declaration must be in the name of the Joint Venture that submits the bid. If the Joint Venture has not been legally constituted at the time of bidding, the Bid Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed: *[insert signature of person authorized by the Bidder to sign the bid submission form, whose name and title are shown below]*

Name: *[insert full name]*

Title: *[insert official title]*

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

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

Section VIII, Contract Forms

Contract Agreement	62
Performance Security	64
Bank Guarantee for Advance Payment	65
Letter of Notification of Award	66

Contract Agreement

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

THIS CONTRACT AGREEMENT is made

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

BETWEEN

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

(2) *[insert name of Supplier], a corporation incorporated under the laws of [insert: country of Supplier] and having its principal place of business at [insert: address of Supplier] (hereinafter called “the Supplier”).*

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

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

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

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

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

For and on behalf of the Purchaser

Signed: *[insert signature]*

in the capacity of *[insert title or other appropriate designation and affix official Seal]*

in the presence of *[insert identification of official witness]*

For and on behalf of the Supplier

Signed: *[insert signature of authorized representative(s) of the Supplier and affix official Seal of the Supplier]*

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

in the presence of *[insert identification of official witness]*

Performance Security

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

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

NCB No. and title: *[insert no. and title of bidding process]*

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

Beneficiary: *[insert complete name of Purchaser]*

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

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

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

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum(s) not exceeding *[insert amount(s) 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]*,⁶ and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

[Signature of authorized representatives of the bank and the Supplier and affix their official Seals]

⁵ The Bank shall insert the amount(s) specified in the GCC being 10% of the Contract Price stated in United States Dollars.

⁶ Dates established in accordance with Clause 17 of the General Conditions of Contract ("GCC"). The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the Bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed *[six months]* *[one year]*, in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."

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]*

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

[bank's letterhead]

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

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

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

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

At the request of the Supplier, we hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount(s)]*⁷ in figures and words upon receipt by us of your first demand in writing declaring that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the Goods.

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

This Guarantee shall remain valid and in full effect from the date of the advance payment received by the Supplier under the Contract until *[insert date]*⁸.

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

[signature(s) of authorized representative(s) of the bank and affix official Seal of the bank]

⁷ *The bank shall insert the amount(s) specified in the SCC and denominated, as specified in the SCC in United States Dollars.*

⁸ *Insert the Delivery date stipulated in the Contract Delivery Schedule. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this Guarantee from the bank. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Purchaser might consider adding the following text to the Form, at the end of the penultimate paragraph: "We agree to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Purchaser's written request for such extension, such request to be presented to us before the expiry of the Guarantee."*

Letter of Notification of Award

[Letterhead of the Employer]

[The Letter of Notification of Award shall be the basis for formation of the Contract as described in ITB 33.1. This Standard Form of Letter of Notification of Award shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed, subject to any review by DP, if required.]

[Insert Date]

Project Name:

Contract Name:

Contract Number:

Date:

Name of Successful Bidder

Address

Fax No/Telephone/Email

NOTIFICATION OF AWARD

Contract Description

This is to notify that the Bid submitted by *[state name of successful supplier]* on *[state date of Bid]* for *[state Contract Description]* with the Contract Price of *[state price in figures and words. If award is for more than one Lot, state for each Lot]* which is/are inclusive of all taxes and as corrected and modified in accordance with the Instructions to Bidders is hereby accepted.

You are hereby instructed to (a) sign and return the attached Contract Documents, and (b) forward the performance security pursuant to ITB Clause 34 and GCC 17 within 14 days after receipt of this Letter of Notification of Award.

Yours Sincerely,

Name of Project Director/Project Manager

Name of Project Management Office

Name of EA

I hereby confirm that I have received this Notification of Award and the attached Contract Documents and confirm that I will sign and submit the Contract Documents

and comply with the requirement for submission of performance security in accordance with the Instructions to Bidder and the Conditions of Contract.

Signature of Authorised Representative of Supplier

Name of Authorized Representative

Date and Stamp of Seal

Annex IV b

Standard National Shopping

Document

Procurement of Goods



Preface

The use of this document is recommended for all goods procurement under shopping procedures with an estimated value below the threshold for National Competitive Bidding stated in Annex III of the Procurement Manual when the procurement is funded by the Government, the Asian Development Bank and the World Bank except where the RGC, represented by MEF, and respective DP have agreed to amendment of any part of the document

The World Bank (WB) and Asian Development Banks' (ADB) guidelines for procurement describe a slightly different shopping process to those set out in this document. However, the use of this document has been agreed with both the ADB and WB for use on ADB and WB funded projects. Therefore when this document is used, no conflict exists between the Government's and Bank's procurement processes. This Standard Bidding Document can also be used for DPs financed projects if the DP has agreed to this.

All Goods procurement under shopping procedures with an estimated value above the threshold stated in of the Procurement Manual must be advertised in the Khmer language in a provincial or national newspaper of wide circulation that has been continuously published for a period of not less than two years. Any interested party may obtain the bidding documents and submit a bid, including foreign firms, free of charge. It is also advisable to advertise in the English Language national newspaper

For Goods procurement under Shopping procedures with an estimated value below the threshold for advertising stated in Annex III of the Procurement Manual there is no need to advertise and the document may be sent directly and free of charge to as many as reasonably possible reputable and qualified firms known to be in the business of supplying the goods for which the bids are being invited, so as to ensure that at **least three bids** are received in response.

Bidders will be required to submit sealed bids which will be opened in public but they will not be required to provide a bid security, but only a bid and performance securing declaration as described in the attached documents. Representatives of Bidders or of Project beneficiaries from the local community who choose to attend the public opening of the bids shall be allowed to do so.

The time period between the appearance of the advertisement and the opening of sealed bids will be at least 14 calendar days.

Table of Contents

INVITATION TO BID	4
SECTION 1. INSTRUCTIONS TO BIDDERS	6
SECTION 2. CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS.....	12
Article 1.General Provisions	12
Article 2.Purchaser's and Supplier's Obligations	12
Article 3.Payment Provisions	13
Article 4.Fraud and Corruption	14
Article 5.Termination.....	15
Article 6.Special Conditions	16
SECTION 3. PRICE AND DELIVERY SCHEDULE	17
SECTION 4. TECHNICAL SPECIFICATIONS.....	18
SECTION 5.1 BID SUBMISSION FORM.....	19
SECTION5.2 STATEMENT ON ETHICAL CONDUCT AND FRAUD AND CORRUPTION ..	20
SECTION 6. FORM OF CONTRACT AGREEMENT	21
SECTION 7. BID AND PERFORMANCE SECURING DECLARATION	25

INVITATION TO BID

The *[Insert Name of the Purchaser]*

Wishes to Purchase:

Insert brief description of the goods

1. The Royal Government of Cambodia (RGC) has received a *[insert "Loan/Credit" or "Grant"]* from the *[insert "the International Development Association" or "The Asian Development Bank"]* toward the cost of *[insert name of Project]*, and it intends to apply part of the proceeds of this *[insert "Loan/Credit" or "Grant"]* to payments under the Contract for *[insert name/no. of Contract]*.
2. The goods are required by *[insert date of expected delivery, in terms of number of calendar days/weeks from the date of contract]*.
3. Interested qualified eligible suppliers are invited to obtain a copy of the bidding documents free-of-charge from the address given below by submitting a written application. Except for the submission of a written application, there shall be no other conditions for obtaining the bidding documents.
4. To be considered eligible and qualified a bidder must
 - i) Be from a ADB member country *[delete this requirement when the funding is not ADB]*
 - ii) Have completed at least two contracts for supply of similar goods in the preceding 3 years of not less than 50% of the bid price in each contract.
 - iii) Have completed contracts with a total cumulative value equal to at least two times the value of the bid price in the preceding 2 years.
 - iv) Not be under any notice of disbarment issued by the Government or *[state name of the Development Partner]*
5. Bids must be delivered to the address given below at or before *[insert time and date]*. Late bids will be rejected. Bids will be opened in public immediately thereafter at the address given below in the presence of the Bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend shall be allowed to be present in person.
6. The Purchaser shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
7. All bids must be accompanied by a bid and performance securing declaration as described in the bidding documents. Any bid not accompanied by one will be rejected as non-compliant

8. The address where the document may be inspected and obtained is:

[Insert name of Executing Agency, Office designation (room number), name of concerned officer in Executing Agency, Street address, City, and telephone and fax numbers].

9. In case of any difficulty in obtaining the bidding documents, interested parties may contact in writing *[insert name, position, complete address, telephone and fax numbers of government officer who should be in higher position in the Executing Agency than the official specified above]* and also send a copy of the communication to *[The Director, Department of Investment and Cooperation, Ministry of Economy and Finance, Street 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Cambodia. Fax No. (855-23) 725 341 and Task Team Leader (Development Partner) (Insert Contact / Address)].*

10. The address for bid submission is

[Insert name of Executing Agency, Office designation (room number), name of officer, street address, City]

11. The Government of Cambodia and/or the Development Partner] will declare a firm ineligible either indefinitely or for a stated period of time, to be awarded a contract financed by the Government of Cambodia and/or the Development Partner respectively, if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for or in executing a contract
12. A complaint may be made by any party at any stage of the procurement process. The procedure is described in Instructions to Bid, Clause 21 of the Bidding Documents

SECTION 1. INSTRUCTIONS TO BIDDERS

1. **Goods:** The _____ *[Name of the Purchaser]*, as the Purchaser, invites bids for the supply of _____ as described in the Conditions of Contract (CC). The successful bidder will be expected to deliver the Goods within the time allowed under the Conditions of Contract.
2. RGC has received funding from _____ *[name of the Development Partner]* towards the cost of the _____ *[insert name of Project]*. The Purchaser intends to apply a portion of the proceeds of the funding to eligible payments under the contract(s) for which these Bidding Documents are issued. No payment shall be made to persons or entities for any import of goods, if such payment or import is prohibited by a decision of the United Nation's Security Council, taken under chapter VII of the Charter of the United Nations.
3. **Eligibility Qualifications of the Bidder:** Only bidders meeting the following criteria will be eligible for an award of contract:
 - a) Be from a ADB member country *[delete this requirement when the funding is not ADB]*
 - b) Have completed at least two contracts for supply of similar goods in the preceding 3 years of not less than 50% of the bid price in each contract.
 - c) Have completed contracts with a total cumulative value equal to at least two times the value of the bid price in the preceding 2 years.
 - d) Not be under any notice of disbarment issued by the Royal Government of Cambodia or the Development Partner
4. **Fraud and Corruption.** The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the Royal Government of Cambodia (RGC) and the Development Partner:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "Corrupt Practices" mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) "Fraudulent Practices" is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

- (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
 - (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP’s sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP’s financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
 - (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

- (f) All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Section 5, Bidding Forms and submit it with their bid. If this Statement is not signed and submitted with the Bid by the Bidder, its Bid will be rejected.
5. **Contents of Bid Documents:** The set of Bid documents comprises the documents listed below:
- Invitation to Bid
- SECTION 1. INSTRUCTIONS TO BIDDERS
- SECTION 2. CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS
- SECTION 3. PRICE AND DELIVERY SCHEDULE
- SECTION 4. TECHNICAL SPECIFICATIONS AND DRAWINGS
- SECTION 5. FORM OF BID and Statement of Ethical Conduct and Fraud and Corruption
- SECTION 6. FORM OF CONTRACT AGREEMENT
- SECTION 7. BID AND PERFORMANCE SECURING DECLARATION
6. **Documents Comprising the Bid:** The Bid submitted by the Bidder shall comprise the following documents:
- Form of Bid
 - Price and Delivery Schedule
 - Bid and Performance Securing Declaration
7. **Bid and Evaluation Criteria:** The Bidder's bid shall be for all required items on a lot basis and evaluation of bids shall also be lot wise. The Purchaser has the right to reject bids that are incorrectly completed. The contract will be awarded to the Bidder offering the lowest substantially responsive bid, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
8. **Bidder Prices:** Prices should be quoted in US Dollars for the Goods delivered at the final destination (Project Site) specified in the Price and Delivery Schedule, inclusive of all costs such as customs duties, sales and other taxes paid or payable if the contract is awarded, transportation, insurance, and other local charges required for conveying the goods to the final destination. Prices shall remain fixed and is not subject to price adjustment during the period of performance of the contract.
9. **Validity of Bid.** The bid shall remain valid for the period of sixty (60) calendar days counted from the deadline for submission of bids specified in Clause 12 of these Instructions. The Purchaser may request Bidders to extend the period of validity for a specified additional period. The Purchaser's request and the Bidder's responses shall be made in writing or by fax or by cable. A Bidder may refuse the request for extension of bid validity in which case it may withdraw its Bid without any penalty. A Bidder agreeing to the request will not be required or permitted to otherwise modify its Bid.

10. **Language of the Bid:** All documents relating to the Bid and contract shall be in the [choose English or Khmer] language.
11. **Preparation and Sealing of Bid:** The Bidder shall prepare one original of the documents comprising the Bid as described in Clause 5 of these Instructions and clearly marked "Original". In addition, the Bidder shall also submit one copy which shall be clearly marked as "COPY". In the event of discrepancy between them the original shall prevail. The original and the copy of the Bid shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. All the pages of the Bid where entries or amendments or corrections have been made shall be initialed by the person or persons signing the Bid. The Bidder shall seal the original and the copy of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPY". The inner and the outer envelopes shall be addressed to the Purchaser at the address provided in the Invitation to Bid shall provide a warning not to open before the specified time and date for Bid opening as defined in Clause 15 of these Instructions. The inner envelopes shall indicate the name and full address of the Bidder. If the outer envelope is not sealed and marked as above, the Purchaser will assume no responsibility for the misplacement or premature opening of the Bid.
12. **Place and Deadline for Submission of Bids:** The Bids shall be delivered to the Purchaser NO LATER than _____ [time, date] at the address given in Clause 10 of the Invitation for Bids. Any Bid received by the Purchaser after the deadline prescribed in this clause will be rejected and returned unopened to the Bidder.
13. **Bid and Performance Securing Declaration:** The Bid and Performance Securing Declaration should be in accordance with the form included in [SECTION 7 BID AND PERFORMANCE SECURING DECLARATION](#) and shall be valid for the warranty period described in Clause 7 of the Conditions of Contract. Any Bid not accompanied by a Bid and Performance Securing Declaration will be rejected by the Purchaser as non-responsive. The execution of a bid and performance securing declaration will result in the Bidder being held ineligible for bidding in any contracts let by the RGC for a period of two years from the expiry of the Bid Validity unless, at a Bidder's option, the Bidder chooses to pay an administrative penalty of two percent (2%) of the total bid amount to the Purchaser. The Bid Securing and Performance Declaration will be executed:
 - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Form or
 - (b) if the Bidder does not accept the correction of its Bid Price pursuant to Clause 17 of these Instructions.
 - (c) if the successful Bidder fails within the specified time to sign the Contract:
 - (d) if the successful bidder, once contracted commits a fundamental breach of contract
14. **Modification and Withdrawal of Bids:** No Bids shall be modified after the deadline for submission of Bids specified above in Clause 12 of these Instructions. Withdrawal of a Bid between the deadline for submission of Bids and the expiration of the validity of the Bids as specified in Clause 9 of these Instructions above may result in the execution of the Bid and Performance Securing Declaration.
15. **Opening of Bids:** The Purchaser will open the Bids in the presence of the bidders' representatives who choose to attend, at the time, date, and in the place specified in Clause 10 of the Invitation to Bid. The bidders' names and the total amount, including

any discounts offered, of each Bid will be announced and recorded by the Purchaser at the Bid opening. The Purchaser shall provide all attendees with written minutes of the bid opening.

16. **Process to be Confidential:** All information relating to the examination, clarification, evaluation and comparison of bids for the contract award shall not be disclosed until the award to the successful Bidder has been announced.
17. **Evaluation and Comparison of Bids:** The Purchaser will award the Contract to the Bidder whose Bid has been determined to be substantially responsive and compliant to the technical specification and standards therein and who has offered the lowest evaluated bid. In evaluating the Bids, the Purchaser will determine for each Bid, the evaluated Bid Price by adjusting the Bid by making any correction for any arithmetic errors as follows:
 - (a) where there is a discrepancy between amounts in figures and in words, the amount in words will govern;
 - (b) where is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern;

If a Bidder refuses to accept the correction, his Bid will be rejected and Bid and Performance Securing Declaration executed.

18. **Purchaser's Right to Accept Any Bids and to Reject any or all Bids:** The Purchaser reserves the right to accept or reject any bid, and to cancel the process of competition and reject all bids, at any time prior to the award of the Contract, without thereby incurring any liability to the affected Bidder(s) or any obligation to inform the affected Bidder(s) of the grounds for the Purchaser' decision.
19. **Notification of Award and Signing of Contract:** The Bidder who's Bid has been accepted will be notified of the award by the Purchaser prior to the expiration of the validity period of the Bid, by facsimile, registered or hand delivered letter. The written notification of award will constitute the formation of the Contract. In the event that no notification of award is issued the signature of the Contract by the Purchaser and Bidder shall constitute the formation of Contract.
20. **Debriefing:** After the award of contract has been announced an unsuccessful Bidder has the right to request a debriefing to ascertain why its bid was unsuccessful and the Purchaser the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection.
21. **Complaints.** A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints received during the evaluation period will be reviewed by the Purchaser and a response issued only after the evaluation is completed. Complaints shall be addressed to the Project Manager [Name, address, tel. and fax Nos. of the Project Manager]. The Project Manager will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint. In the event that the response from the Project Manager does not satisfy the bidder or there is no response to the complaint it should be referred to the Department of Public Procurement, Ministry of Economy and Finance, 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia. In such case, a

copy of the complaint should also be sent to the Department of Investment and Cooperation, Ministry of Economy and Finance.....
[Name, address, tel. and fax Nos. of the designated official of the Department of Investment and Cooperation] and to the representative of the Development Partner..... [Name, address, tel. and fax Nos. of the designated Task Team Leader for the Project]. The Department of Public Procurement shall respond to the complaint within 14 calendar days. This is without prejudice to any other recourse that a bidder may choose.

22. **Publication of Award.** The Purchaser shall

- a) notify in writing all participating bidders of the results of the bid evaluation promptly after the contract has been awarded, and
- b) publish in a national newspaper, promptly at the end of each quarter, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Purchaser.

SECTION 2. CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS

Article 1. General Provisions

1. The Supplier confirms that he has examined, read and understood fully all the Contract Documents, being
 - The Bid Submission Form submitted by the Supplier,
 - The Price and Delivery Schedule,
 - the Form of Contract,
 - the Conditions of Contract,
 - the Technical Specificationswhich together form the Contract
2. The Contract shall be amended only by written agreement between the Purchaser and the Supplier.
3. The laws of the Kingdom of Cambodia will be applicable to the Contract. Every effort shall be made to resolve disputes amicably and without recourse or referral to third parties. Any dispute that cannot be resolved amicably shall be referred by either Party to the (Arbitration Council of Cambodia) Cambodian Chamber of Commerce for adjudication in accordance with the under the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

Article 2. Purchaser's and Supplier's Obligations

4. The Purchaser and the Supplier now agree as follows:
 - The Purchaser pledges to pay the Supplier, the Contract Price, _____ [*Insert amount in words and figures*]. This amount is for the full delivery of the goods listed in the Price and Delivery Schedule.
 - The Supplier shall supply
.....
[*insert description of the goods*] on or before the delivery date and at the final destination [*Project Site*], as stipulated in the Price and Delivery Schedule, and conforming to the standards as stipulated in the Technical Specifications. The Supplier shall be responsible for fully insuring the Goods against loss or damage from "warehouse to warehouse" [*final destination*] on "All Risk basis".
5. The Purchaser has the right to reduce the payment to the Supplier by 0.1% of the total price of the Contract for each day of delay beyond the delivery date shown in the Price and Delivery Schedule. The reduction is up to a maximum of 10%, after which the Purchaser may terminate the contract.

6. If Force Majeure makes completion of the contract impossible, the Supplier may ask the Purchaser to release him from the Contract.
7. The Supplier guarantees that all goods supplied will be new and unused and carry a warranty of _____ months *[insert warranty period required of between 6 months to 12 months depending on the goods being purchased]* starting from the actual delivery date of the goods. Throughout this period the Supplier agrees to make good, at its own expense, any defect that appears during that time due to quality of materials or workmanship. The Supplier will submit a warranty certificate issued by the Manufacturer of the goods supplied valid for the period specified in this Clause.
8. The Goods supplied under the Contract shall be fully insured in US Dollars against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery at the final destination (Project Site). The insurance shall be obtained by the Supplier in an amount equal to 110% of the value of the goods from “warehouse to warehouse (final destination) on “All Risks” basis including War Risks and Strikes.

Article 3. Payment Provisions

9. Payments will only be made on or after the due date shown in the schedule below, and after fulfillment of the “payment conditions” (whichever is the later).

[Note: The following is a sample payment schedule, which the Purchaser may retain or reasonably modify, if necessary, to suit the specific requirements of the contract. This note should be deleted from the final contract].

<i>Payment Schedule</i>			
Steps of Payment	Amount	Scheduled Date	Payment Conditions
Payment No 1	90% of the value of delivered Goods		Upon receipt of the Goods and Warranty Certificate issued by the Manufacturer
Payment No 2	Balance 10% of the value of delivered goods		Upon inspection and acceptance of the goods

10. Time allowed for processing of payments will be as follows:
 - 90% of the value of the goods delivered. The Purchaser will issue a receipt for the goods upon delivery and receipt of the necessary warranty certificates issued by the manufacturer. The Supplier shall submit its commercial invoice with the original receipt attached and three copies of both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 calendar days of submission;
 - Balance 10% of the value of the goods delivered. Within 30 calendar days of receiving the goods, the Purchaser will undertake any inspections and tests that it

deems necessary. Provided that the goods pass any such inspection or tests the Purchaser will issue an acceptance certificate to the Supplier. The Supplier shall submit its commercial invoice with the original acceptance certificate attached and three copies of both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 calendar days of submission

- In the event that after the expiry of 30 calendar days after the delivery of the goods, the Purchaser does not provide the Supplier with an acceptance certificate (or issue instructions to repair or replace any defective goods), the Supplier shall submit its invoice in three copies signed as true and correct, for the remaining 10% of the value of the goods delivered and the Purchaser will effect payment within 30 calendar days of submission.
11. If any payment is delayed for more than 1 calendar month after the Due Date for Payment, the Purchaser will pay interest to the Supplier at the rate of 1% of the amount of the payment for the first month and for each subsequent full calendar month during which payments are delayed.

Article 4. Fraud and Corruption

12. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:
- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from

pursuing the investigation; or acts intended to materially impede the exercise of the DP's inspection and audit rights provided for under sub-clause (e) below.

- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

13. The Development Partner will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Development Partner to remedy the situation.

Article 5. Termination

14. The Purchaser may at any time terminate the Contract by giving written notice to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. In this event, the termination will be without compensation to the Supplier.

15. The Purchaser, by written notice sent to the Supplier, may terminate the Contract in whole or in part, at any time for its convenience. The Goods that are complete and ready for transportation to the final destination within fourteen calendar days after the Supplier's receipt of this notice of termination shall be accepted by the Purchaser at the Contract terms and prices.

Article 6. Special Conditions

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In witness of what has been agreed above, the signatures of the authorized representatives of the two Parties are affixed below on the date shown.

▪ Purchaser		▪ Supplier	
_____Affix Official		_____Affix official	
Seal_____		Seal_____	
Name	_____	Name	: _____
Position	_____	Position	: _____
Date	_____	Date	: _____

SECTION 3. PRICE AND DELIVERY SCHEDULE

Line Item N°	Description of Goods	Quantity	Physical unit	Delivery Final Destination	Delivery Period	Unit Price, inclusive of any taxes and duties payable	Total price inclusive of any taxes and duties payable
<i>[insert item No]</i>	<i>[insert description of Goods]</i>	<i>[insert quantity of item to be supplied]</i>	<i>[insert physical unit for the quantity]</i>	<i>[insert place of Delivery]</i>	<i>[insert the number of days following the date of effectiveness the Contract]</i>	<i>To be completed by the bidder</i>	<i>To be completed by the bidder</i>

Total Contract Price

In Words _____

Authorized Signature of Bidder.(and affix Seal).....

1. Currency to be used is US Dollars. The price shall include all customs duties and sales and other taxes already paid or payable, transportation, insurances, and any other local charges for delivery of the goods up to final destination.

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

SECTION 4. TECHNICAL SPECIFICATIONS

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Purchaser without qualifying or conditioning their bids. These should be included here. The Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. The Specifications should require that all goods and materials be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Item	Specification	Statement of Compliance Bidders must state here either “Comply” or “Not Comply” against each of the individual parameters of each Specification stating the corresponding performance parameter of the equipment offered. Statements of “Comply” or “Not Comply” of must be supported by evidence in a bidders bid and cross-referenced to that evidence. A statement that is not supported by evidence or is subsequently found to be contradicted by the evidence presented will render the bid under evaluation liable for rejection. A statement either in the bidders statement of compliance or the supporting evidence that is found to be false either during evaluation or the execution of the contract may be regarded as fraudulent and render the bidder or supplier liable for prosecution.
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SECTION 5.1 Bid Submission Form

_____ [Date]

To: _____ [Purchaser's Name]

_____ [Purchaser's Address]

We offer to supply in conformity with the Bidding Documents and in accordance with the Delivery Schedules specified therein, the following Goods *[insert a brief description of the Goods]*. The total price of our Bid, including any discounts offered, is *[insert US Dollar amount in words and figures]*.

This Bid and your written acceptance will constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive. We hereby confirm that this Bid will remain valid for 60 calendar days after the Deadline for Submission of Bids.

We note and accept without reservation the Government's and the Development Partner's (when other than the Government) right to audit and inspect any and all records relating both to the preparation of our Bid, and if our Bid is successful, the execution of the resulting contract.

Authorized Signature: _____

Name and Title of Signatory _____

Name of Bidder and affix Seal: _____

Address: _____

Phone Number: _____

Fax Number, if any: _____

[The **Bidder** shall fill in and submit this form with the Bid.]

Section 5.2 Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

1. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
2. Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
3. Neither we, nor any of our employees, associates, agents, shareholders, partners, consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
4. We understand our obligation to allow the Government or the Development Partner to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
5. No payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
6. We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the Development Partner and/or other sources for a period to be determined by them.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder and Affix Seal: _____

Address: _____

Phone Number: _____

Fax Number, if any: _____

SECTION 6. FORM OF CONTRACT AGREEMENT

AGREEMENT

This Agreement, made the _____ day of _____ 20____, by and between

[Name and address of Purchaser] (hereinafter called "the Purchaser") and

[Name and address of Supplier] (hereinafter called "the Supplier") of the other part.

Whereas the Purchaser invited bids for certain Goods viz., *[insert brief description of Goods]* and has accepted a Bid by the Supplier for the supply of those Goods in the sum of *[insert Contract Price in words and figures, expressed in United States Dollars]* (hereinafter called "the Contract Price").

Now this Agreement witnesses as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:
 - (a) The Form of Contract,
 - (b) the Conditions of Contract,
 - (c) the Technical Specifications
 - (d) the Bid Submission Form ,

- (e) the Price and Delivery Schedule,
 - (f) the Purchaser's Notification of Award (if applicable)
3. This Contract shall prevail over all other Contract documents. In the event of any discrepancy or inconsistency within the Contract documents, then the documents shall prevail in the order listed above.
 4. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to execute and complete the Contract in conformity in all respects with the provisions of the Contract.
 5. The Purchaser hereby covenants to pay the Supplier in consideration of the execution and completion of the Contract the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written

The Common Seal of

was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the
said

in the presence of :

Binding Signature of Purchaser:_____

Binding Signature of Supplier:_____

Letter of Notification of Award

[Letterhead of the Employer]

[The Letter of Notification of Award shall be the basis for formation of the Contract as described in ITB 19. This Standard Form of Letter of Notification of Award shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed, subject to any review by DP, if required.]

[Insert Date]

Project Name:

Contract Name:

Contract Number:

Date:

Name of Successful Bidder

Address

Fax No/Telephone/Email

NOTIFICATION OF AWARD

Contract Description

This is to notify that the Bid submitted by *[state name of successful supplier]* on *[state date of Bid]* for *[state Contract Description]* with the Contract Price of *[state price in figures and words. If award is for more than one Lot, state for each Lot]* which is/are inclusive of all taxes and as corrected and modified in accordance with the Instructions to Bidders is hereby accepted.

You are hereby instructed to sign and return the attached Contract Documents within 14 days after receipt of this Letter of Notification of Award.

Yours Sincerely,

Name of Project Director/Project Manager

Name of Project Management Office

Name of EA

I hereby confirm that I have received this Notification of Award and the attached Contract Documents and confirm that I will sign and submit the Contract Documents

and comply with the requirement for submission of performance security in accordance with the Instructions to Bidder and the Conditions of Contract.

Signature of Authorised Representative of Supplier

Name of Authorized Representative

Date and Stamp of Seal

SECTION 7. BID AND PERFORMANCE SECURING DECLARATION

[If required, the Bidder shall fill in this form in accordance with the instructions indicated in brackets.]

Date: *[insert date]*

Name of contract: *[insert name]*

Contract Identification No: *[insert number]*

Invitation for Bid No.: *[insert number]*

To: _____

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a bid and performance securing declaration.
2. We accept that we shall be suspended from being eligible for bidding in any contract with the Purchaser and the Government of Cambodia for the period of time of two years starting on the date of the Purchaser's execution of this Declaration, if we are in breach of our obligation(s) under the bid conditions and contract conditions, because we:
 - (a) have withdrawn our Bid during the period of bid validity specified by us in the Bid Submission Sheet; or
 - (b) do not accept the correction of errors in accordance with the Instructions to Bidders of the Bidding Documents, or
 - (c) having been notified of the acceptance of our Bid by the Purchaser during the period of bid validity, fail or refuse to execute the Contract Form, if required, or
 - (d) committed a fundamental breach of contract leading to the Purchaser's termination of the contract for reasons of our default.
3. We understand this bid and performance securing declaration shall expire if we are not the successful bidder on the date, 30 calendar days after the expiry of the validity of our Bid, or in the event that our bid is successful and we are awarded a contract we understand that this bid and performance securing declaration will expire upon successful completion of the warrant period specified in Clause 7 of the Conditions of Contract.

4. We understand that if we are a JV, the Bid and Performance Securing Declaration 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 and Performance Securing Declaration shall be in the names of all future partners as named in the letter of intent.

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

In the Capacity of *[insert title]*

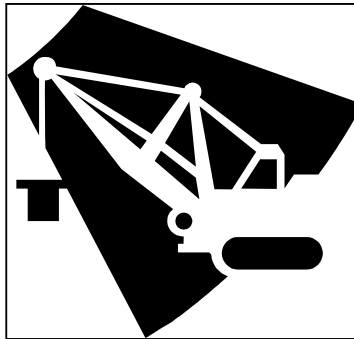
Name *[insert printed or typed name]*

Duly authorized to sign the bid for and on behalf of *[insert authorizing entity]*

Dated on *[insert day]* day of *[insert month]*, *[insert year]*



Annex IV c Standard National Competitive Bidding Document Procurement of Works



Kingdom of Cambodia

Preface

The use of this document is mandatory for all works procurement under the National Competitive Bidding method of procurement with an estimated value within the threshold for National Competitive Bidding stated in Annex III of the Procurement Manual when the procurement is funded by the Government, the Asian Development Bank and the World Bank except where the RGC, represented by MEF, and respective DP have agreed to amendment of any part of the document

This Standard Bidding Document has been made consistent with the World Bank (WB) and Asian Development Banks' (ADB) guidelines for procurement through modifications of the Data Sheets and has been agreed with the WB and ADB for use on ADB and WB financed projects.

This standard bidding document can also be used for other DP financed projects if the DP has agreed to this.

This standard bidding document has been prepared for use of works procurement with an estimated value less than or equal to \$1,000,000 as set out in the threshold stated in Annex III of this Procurement Manual.

Works procurement with an estimated value of more than \$1,000,000 must employ the respective DP's own international competitive (ICB) procedures and process as set out in their Guidelines and the Standard Bidding Documents issued in support of those Guidelines.

However, this standard bidding document can be used for works procurement of a value above \$1,000,000 if the DP and MEF have agreed to this and is specified in the approved Project Procurement Plan.

TABLE OF CONTENTS

Instructions	4
Invitation for Bids	6
Section I, Instructions to Bidders	9
Section II, Bid Data Sheet	26
Section III, General Conditions of Contract	29
Section IV, Special Conditions of Contract.....	51
Section V, Specifications & Performance Requirements.....	55
Section VI, Drawings	57
Section VII, Bill of Quantities	58
Section VIII, Forms of Bid, Qualification Information, Letter of Acceptance, and Agreement	60

Instructions

These *Standard Bidding Documents* are intended as a model for admeasurements (unit prices or unit rates in a bill of quantities) and lump sum types of contract, which are the most common in civil works contracting. Lump sum contracts are used in particular for building construction and other forms of construction where the works are well defined and are unlikely to change in quantity or specification, and where encountering difficult or unforeseen site conditions (for example, hidden foundation problems) is unlikely. The main text refers to admeasurements contracts. Alternative clauses or texts are supplied for uses with lump sum contracts in boxes are shown as footnotes; these notes must be deleted from the final document before issue to bidders. Care must be exercised by EA/IA/PMU/PIU in selecting the alternative clauses.

The document is issued in the English language. However the documents can also be issued in the Khmer language in which case most development partners like the ADB, require the translation of this document into Khmer and submission of both for their review. The English language document shall always be provided to bidders along with the Khmer document. In the case of a discrepancy between the two, the English language version shall prevail. For the World Bank funded procurement, this document may be submitted in the Khmer language for review.

The documents also contain guidance notes in text boxes for users on certain aspects of using the document. These should be deleted from the final document.

With the exception of the changes for admeasurements/lump sum contracting options highlighted in the footnotes and the deletion of guidance text no changes are to be introduced whatsoever to either the Instructions to Bidders or the General Conditions of Contract. Changes to the document may only be introduced through either the Bid Data Sheet or the Special Conditions of Contract.

The Instructions to Bidders contain references to the Bid Data Sheet (BDS) and when these references refer to information that has a contractual nature, the Bid Data Sheet directs the user and bidder to the relevant contractual term (the ITBs do not form part of the contract so it is preferable to define matters such as eligibility, Employer, etc. as a GCC).

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

- a) All the documents listed in the Table of Contents are normally required for the procurement of works. However, they should be adapted as necessary to the circumstances of the particular project..
- b) Specific details, such as the name of the Employer, address for bid submission, etc., should be furnished in the spaces indicated by italicized notes inside brackets.
- c) The boxed and italicized notes are not part of the text, but rather contain instructions for the user. They should not be incorporated in the bidding documents.
- d) Where alternative clauses or text are shown, select those that best suit the particular works and discard the unused alternative text.
- e) These documents and NCB is based on the assumption of post qualification as pre-qualification is not appropriate to lower value contracts undertaken in a national environment.

Lump Sum Contracts

Lump sum contracts may be used for works that can be defined in their full physical and qualitative characteristics before bids are called or where the risks of substantial design variations are minimal - usually construction of buildings, power transmission towers, and series of small structures, such as bus shelters or school ablution units. It is important to note that the price of a lump-sum contract cannot be revised after signature unless there is a significant revision to the scope of the works to be executed.

In lump sum contracts, the concept of priced "activity schedules" has been introduced, to enable payments to be made as "activities" are completed. Payments can also be made on the basis of percentage completion of each activity. Examples of activities are:

- in highway repaving contracts: each kilometre completed.
- in a project for constructing many individual housing or classroom units: each of those units.
- in the construction of a multi-story building: excavation; foundation structures; structural concrete (or steel) per floor; cladding, per floor: services (electrical, water, sewers, drains), each payable as a percentage completed in relation to the service for the whole building.

Invitation for Bids

The Kingdom of Cambodia

[Name of Project]

[Loan / Credit / Grant Number]

[Contract Number and Description]

1. The Royal Government of Cambodia (RGC) *[insert "has received/has applied for/intends to apply for"]* a *[insert "loan" or "credit"]* from the *[insert name of Development Partner]* toward the cost of *[insert name of Project]*, and it intends to apply part of the proceeds of this *[insert "loan" or "credit" or "grant"]* to payments under the Contract for *[insert name/no. of Contract]*.

If the government is using its own funds delete the above paragraph renumbering the subsequent ones

2. The *[insert complete name of Employer]* now invites sealed bids from eligible and qualified bidders for *[insert brief description of the Works to be procured]*.⁹ The construction period is *[insert number of calendar days/months/years or dates]*.
3. Procurement will be conducted through National Competitive Bidding Procedures outlined in the Procurement Manual for Externally Financed Projects/Programs, and under the laws and regulations governing public procurement within the Kingdom of Cambodia.
4. This invitation is open to all bidders. *[if the Development Partner is ADB delete this sentence and replace it with "This invitation is open to all eligible bidders from eligible source countries as described in the Bidding Document"]*.¹⁰
5. Interested eligible bidders may obtain further information from *[insert complete name of Employer; insert name and e-mail of officer in charge]* and inspect the Bidding Documents at the address given below *[state address at end of this IFB]* from *[insert office hours]*..
6. Interested bidders' attention is drawn to Sub Clause 6.3 of the Instructions to Bidders and the Qualifications requirements include: *[insert key technical, financial, legal and other requirements]*.

⁹ A brief description of the type(s) of Goods or Works should be provided, including quantities, location of Project, and other information necessary to enable potential bidders to decide whether or not to respond to the Invitation

¹⁰ Occasionally, contracts may be financed out of special funds that would further restrict eligibility to a particular group of member countries. When this is the case, it should be mentioned in this paragraph.

7. A complete set of Bidding Documents may be purchased by interested bidders on the submission of a written Application to the address below and upon payment of a non refundable fee *[insert amount in US Dollars]* or its equivalent in Cambodian Riel being *[insert Riel equivalent]* . The method of payment will be *[insert method of payment]*. The Bidding Documents will be sent by *[insert delivery procedure]* or may be collected in person at the discretion of the bidder. Other than payment of non refundable fee, there are no other conditions for the purchase of the bidding documents
8. In case of any difficulty in purchase of the bidding documents, prospective bidders may contact in writing [name, designation, address, telephone, fax and email of government officer who should be in a higher position in the EA than the official specified in Clause 5 above] and also send a copy to Director, Department of Investment and Cooperation, Ministry of Economy and Finance, Street 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Cambodia and Task Team Leader (Development Partner) (Insert Contact/ Address).
9. Bids must be delivered to the address below at or before *[insert time and date]*. Late bids will be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend in person at the address below at *[insert the same time and date as the deadline for bid submission]*.
10. All bids shall be accompanied by a Bid Securing Declaration as described in the Instructions to Bidders

Guidance note.

If a Bid security is instead required replace the above paragraph with the following text

- 10 All bids shall be accompanied by a Bid Security in the amount of US\$ *[insert amount]*

11. The RGC and the [name of Development Partner] will respectively declare a firm ineligible either indefinitely or for a stated period of time, to be awarded a contract funded by the RGC and/or [name of Development Partner], if they at any time determines that the firm has engaged in corrupt or fraudulent, coercive, collusive or obstructive practices in completing or in executing a contract.

12. The address(es) referred to above is(are): *[insert detailed address(es) including complete legal name of the Employer, Office designation (room number) , name of Officer, Street address, City (code), Country; insert different addresses if addresses for purchase of bidding documents, bid submission and bid opening are different]*

Section I, Instructions to Bidders

A.GENERAL.....	10
Scope of Bid	10
Source of Funds.....	10
Fraud and Corruption.....	10
Eligible Bidders	12
One bid per bidder.....	13
Qualification of bidders	13
Site Visit.....	15
Cost of bidding.....	15
B.BIDDING DOCUMENTS	15
Content of the bidding document	15
Clarification of the bidding document.....	15
Amendment of the bidding document	16
C.PREPARATION OF BIDS.....	16
Language of bids.....	16
Documents comprising the bid.....	16
Bid Prices.....	16
Bid Validity	17
Bid Security and Bid Securing Declaration	17
Format and signing of bids.....	18
D.SUBMISSION OF THE BIDS	19
Sealing and marking of bids.....	19
Deadline for submission of bids	19
Modification and withdrawal of bids	19
Bid opening.....	20
E.EVALUATION OF BIDS	21
Process to be confidential	21
Clarification of bids	21
Preliminary examination of bids	21
Correction of errors	22
Evaluation of responsive bids.....	22
F.POST QUALIFICATION AND AWARD	23
Post qualification.....	23
Employers right accept or reject any bid.....	23
Award Criteria	23
Notification of Award and Signing of the Agreement	23
Performance Security	24
Advance Payment.....	24
Adjudication.....	24
Debriefing	24
Complaints.....	25
Publication of Award	25

A. GENERAL

1. Scope of Bid

- 1.1. The Employer as defined in the Bid Data Sheet (BDS) invites bids for the construction of Works, as described in the BDS. The name and identification number of the Contract is provided in the BDS.
- 1.2. The successful Bidder will be expected to complete the Works within the period set out in the **BDS**.

2. Source of Funds

- 2.1. The Royal Government of Cambodia, hereinafter referred to as “RGC”, has secured funds from the Development Partner named in the BDS toward the cost of the project named in the BDS.
- 2.2. No payment shall be made to persons or entities, or for any import of goods, if such payment or import prohibited by a decision of the United Nations Security Council, taken under Chapter VII of the Charter of the United Nations.

3. Fraud and Corruption

- 3.1. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.

- (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
 - (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
 - (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP’s sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP’s financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
 - (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.
- 3.2. All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Section VIII, Form of Bid and submit it with their bid.

4. Eligible Bidders

- 4.1. A Bidder, and all parties constituting the Bidder, may have the nationality of any country unless otherwise indicated in GCC Sub-Clause 1.2. A Bidder shall be deemed to have the nationality of a country if the Bidder is a citizen or is constituted, incorporated, or registered and operates in conformity with the provisions of the laws of that country.
- 4.2. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract including Related Services. Any limitation of eligibility stated in GCC Sub-Clause 1.2 shall also apply to the origin of goods and related services to be used in the performance of the Contract. For purposes of this clause, "origin" means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied.
- 4.3. Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Employer to provide consulting services for the preparation of the design, National Standard Bidding Documents, Procurement of Works specifications, and other documents to be used for the procurement of the works under this Invitation for Bids.
- 4.4. A Bidder shall not have a conflict of interest. All Bidders found to be in conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if they:
 - (a) have controlling shareholders in common;
 - (b) Have shareholders in common that are related to the second civil degree; or
 - (c) receive or have received any direct or indirect subsidy from any of them; or
 - (d) have the same authorized representative for purposes of this Bid; or
 - (e) have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the Bid of another Bidder
 - (f) if any of the bidder's senior officers or controlling shareholders are related to any officer of the Employer who is involved with this procurement process.
- 4.5. A Bidder, and all parties constituting the Bidder, that is under a declaration of ineligibility for corrupt and fraudulent practices as described in ITB Sub-Clause 3.1 issued respectively by the Development Partner and the RGC, at the date of contract award, shall be disqualified.
- 4.6. Government-owned enterprises in the Cambodia may only participate if they are legally and financially autonomous, operate under commercial law, and are not a dependent agency of the Employer.

- 4.7. All bidders are required to complete and submit with their bids the appropriate forms listed in Section VIII attached hereto.

5. One bid per bidder

- 5.1. Each Bidder shall submit only one Bid, either individually or as a partner in a joint venture. A Bidder who submits or participates in more than one Bid will cause all the Bids with the Bidder's participation to be disqualified. Sub-contractors may participate in one or more bids provided that the cost of the sub-contracted goods, works or services (including labor) do not exceed the percentage of the bid price stated in the **BDS**.

6. Qualification of bidders

- 6.1. All bidders shall include the following information and documents with their bids in [Section VIII, Forms of Bid, Qualification Information, Letter of Acceptance, and Agreement](#) unless otherwise stated in the **BDS**:
- (a) a preliminary description of the proposed work method and schedule, including drawings and charts as necessary;
 - (b) copies of original documents defining the constitution or legal status, place of registration, and principal place of business;
 - (c) written power of attorney of the signatory of the Bid to commit the Bidder;
 - (d) total monetary value of construction work performed for each of the last three years;
 - (e) experience in works of a similar nature and size for each of the last five years, and details of work under way or contractually committed; and clients who may be contacted for further information on those contracts;
 - (f) major items of construction equipment proposed to carry out the Contract;
 - (g) qualifications and experience of key site management and technical personnel proposed for the Contract;
 - (h) reports on the financial standing of the Bidder, such as profit and loss statements and auditor's reports for the past three years;
 - (i) evidence of adequacy of working capital for this Contract (access to line(s) of credit and availability of other financial resources);
 - (j) authority to seek references from the Bidder's bankers;
 - (k) information regarding any litigation, current or during the last five years, in which the Bidder is involved, the parties concerned, and disputed amount; and
 - (l) proposals for subcontracting components of the Works amounting to more than 10 percent of the Contract Price.

- 6.2. Bids submitted by a joint venture of two or more firms as partners shall comply with the following requirements, unless otherwise stated in the BDS:
- (a) the Bid shall include all the information listed in ITB Sub Clause 6.1 for each joint venture partner;
 - (b) All partners shall be required to meet the eligibility requirement described in ITB Clause 4;
 - (c) the Bid shall be signed so as to be legally binding on all partners;
 - (d) all partners shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms;
 - (e) one of the partners will be nominated as being in charge, authorized to sign the bid, incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
 - (f) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.
 - (g) A copy of the Joint Venture Agreement entered into by the partners shall be submitted with the bid; or a Letter of Intent to execute a joint venture agreement in the event of a successful bid shall be signed by all partners and submitted with the bid, together with a copy of the proposed Agreement.
- 6.3. To qualify for award of the Contract, bidders shall meet the following minimum qualifying criteria:
- (a) demonstrable construction volume of at least that indicated in the BDS;
 - (b) experience as prime contractor in the construction of at least two works of a nature and complexity equivalent to the Works within the last 5 years (to comply with this requirement, works cited should be at least 70 percent complete, billed and paid);
 - (c) liquid assets and/or credit facilities, net of other contractual commitments and exclusive of any advance payments which may be made under the Contract, of no less than the amount stated in the BDS;
 - (d) proposals for the timely acquisition (own, lease, hire, etc.) of the essential equipment listed in the **BDS**;
 - (e) a Contract Manager with five years' experience in works of an equivalent nature and volume, including no less than three years as Manager; and
 - (f) any other additional requirement stated in the **BDS**
- 6.4. A consistent history of litigation or arbitration awards against the Applicant or any partner of a Joint Venture may result in disqualification.

- 6.5. The figures for each of the partners of a joint venture shall be added together to determine the Bidder's compliance with the minimum qualifying criteria of ITB Sub Clause 6.3 (a) and (c); however, for a joint venture to qualify, each of its partners must meet at least 25 percent of minimum criteria of ITB Sub Clause 6.3 (a) and (c) , and the partner in charge at least 40 percent of those minimum criteria. Failure to comply with this requirement will result in rejection of the joint venture's Bid. Proposed Subcontractors' experience and resources will not be taken into account in determining the Bidder's compliance with the qualifying criteria.

7. Site Visit

- 7.1. The Bidder, at the Bidder's own responsibility and risk, is encouraged to visit and examine the Site of Works and its surroundings and obtain all information that may be necessary for preparing the Bid and entering into a contract for construction of the Works. The costs of visiting the Site shall be at the Bidder's own expense. The Employer will, if indicated in the BDS, hold a pre-bid meeting at the date, time and venue indicated in the BDS.

8. Cost of bidding

- 8.1. The Bidder shall bear all costs associated with the preparation and submission of his Bid, and the Employer will in no case be responsible or liable for those costs.

B. BIDDING DOCUMENTS

9. Content of the bidding document

- 9.1. The set of Bidding Documents comprises the documents listed below and any Addenda issued in accordance with ITB Clause 11.

Section I, Instructions to Bidders

Section II, Bid Data Sheet

Section III, General Conditions of Contract

Section IV, Special Conditions of Contract

Section V, Specifications & Performance Requirements

Section VI, Drawings

Section VII, Bill of Quantities

Section VIII, Forms of Bid, Qualification Information, Letter of Acceptance, and Agreement

Section IX, Security Forms

10. Clarification of the bidding document

- 10.1. A prospective Bidder requiring any clarification of the bidding documents may notify the Employer in writing (includes facsimile but excludes email) at the

Employer's address indicated in the invitation to bid. The Employer will respond in writing to any request for clarification received earlier than 14 calendar days prior to the deadline for submission of bids. Copies of the Employer's response will be forwarded to all who purchased the bidding documents, including a description of the inquiry, but without identifying its source. Other than in writing, there shall be no communications between prospective bidders and the Employer.

11. Amendment of the bidding document

- 11.1. At any time prior to the deadline for submission of the Bids, the Employer may amend the Bidding Document by issuing addenda.
- 11.2. Any addendum issued shall be considered part of the Bidding Document and shall be communicated in writing to all who have obtained the Bidding Document directly from the Employer.
- 11.3. To give prospective Bidders reasonable time in which to take an addendum into account in preparing their Bids, the Employer may, at its discretion, extend the deadline for the submission of the Bids, pursuant to **ITB Clause 10.1**.

C. PREPARATION OF BIDS

12. Language of bids

- 12.1. All documents relating to the Bid shall be in English unless otherwise stated in the BDS.

13. Documents comprising the bid

- 13.1. The Bid submitted by the Bidder shall comprise the following:
 - (a) The signed Bid Form in accordance Section VIII;
 - (b) Bid Securing Declaration (replace with Bid Security if this is required) in accordance with ITB Clause 16;
 - (c) Priced Bill of Quantities;¹¹
 - (d) Qualification Information Form and supporting documents, Letter of Acceptance, and Agreement in accordance with Section VIII; and
 - (e) any other document required in the BDS.

14. Bid Prices

- 14.1. The Contract shall be for the whole Works, in accordance with ITB Clause 1.1, based on the priced Bill of Quantities⁴ submitted by the Bidder.

¹¹ For lump sum contracts deleted "Bill of Quantities" and replace it with "Activity Schedule" throughout the document

- 14.2. The Bidder shall fill in rates and prices for all items of the Works described in the Bill of Quantities⁴. Items for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Bill of Quantities.
- 14.3. All duties, taxes, and other levies payable by the Contractor under the Contract, or for any other cause, as of the date 28 calendar days prior to the deadline for submission of bids, shall be included in the rates, prices, and total Bid price submitted by the Bidder.
- 14.4. Prices quoted by the Bidder shall be fixed during the Bidder's performance of the Contract and not subject to adjustment on any account, unless otherwise specified in the BDS, GCC and SCC. A Bid submitted with an adjustable price quotation, when a fixed price quotation is required, shall be treated as non-responsive and shall be rejected, pursuant to ITB Clause 24.3. However, if in accordance with the BDS, GCC and SCC, prices quoted by the Bidder shall be subject to adjustment during the performance of the Contract, a bid submitted with a fixed price quotation shall not be rejected, but the price adjustment shall be treated as zero.
- 14.5. The unit rates and prices shall be quoted in United States Dollars. However, payment to the Contractor under the contract shall be made in the currency of the bid price of the winning Bidder in the proportions specified in SCC Sub-Clause 43.2.

15. Bid Validity

- 15.1. Bids shall remain valid for the period specified in the **BDS**.
- 15.2. In exceptional circumstances, prior to the expiration of the bid validity period, the Employer may request Bidders to extend the period of validity of their Bids. The request and the bidders' responses shall be made in writing. A Bidder may refuse the request without forfeiting its Bid Security or having its Bid Securing Declaration executed. A Bidder agreeing to the request shall not be required or permitted to modify its Bid, but will be required to extend the validity of its Bid Security or Bid Securing Declaration for one calendar month beyond the period of the extension, and in compliance with ITB Clause 16.3 in all respects.
- 15.3. If the period of bid validity is extended beyond 60 calendar days, the amounts payable shall be increased by $\frac{1}{4}$ of 1 percent per month, or pro rata part thereof for the period of delay beyond 60 calendar days after the expiry of the initial bid validity, up to the notification of award. Bid evaluation will be based on the Bid prices without taking the above correction into consideration.

16. Bid Security and Bid Securing Declaration

- 16.1. At the option of the Employer the Bidder shall furnish as part of its Bid, either:
 - (a) a Bid Security in the amount described in the **BDS**; or
 - (b) a Bid-Securing Declaration in original form as specified in the **BDS**.

The **BDS** indicates which of (a) or (b) is to be provided.

- 16.2. The Bid Security when required shall, at the Bidder's option, be in the form of a certified check, bank draft, standby letter of credit, or guarantee, from a bank in Cambodia that has been determined by the Bidder to be acceptable to the Employer. Cash is not an acceptable form of Security. The format of the Bid

Security should be in accordance with the form of Bid Security included in [Section IX, Security Forms](#). The Bid Security shall be valid for 30 calendar days beyond the validity of the Bid as specified in the BDS.

- 16.3. The Bid Securing Declaration when required should be in accordance with the form of Bid Security included in [Section IX, Security Forms](#) shall be valid for 30 calendar days beyond the validity of the Bid.
- 16.4. Any Bid not accompanied by an acceptable Bid Security when required or a Bid Securing Declaration when required will be rejected by the Employer as non-responsive.
- 16.5. The Bid Security or Bid Securing Declaration 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 or Bid-Securing Declaration shall be in the names of all future partners as named in the letter of intent.
- 16.6. The Bid Security of unsuccessful Bidders shall be returned within seven calendar days of the successful Bidder's furnishing of the performance security.
- 16.7. The Bid Security of the successful Bidder shall be returned once the Bidder has signed the Contract and furnished the required Performance Security.
- 16.8. The Bid Security may be forfeited or the Bid Securing Declaration executed:
 - (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Sheet, except as provided in ITB Sub Clause 15.2 or
 - (b) if the Bidder does not accept the correction of its Bid Price pursuant to ITB Clause 25.
 - (c) if the successful Bidder fails within the specified time to:
 - (1) sign the Contract; or
 - (2) furnish the required performance security
- 16.9. The execution of a bid securing declaration will result in the bidders (including all members of a joint venture) being held ineligible for all contracts let by the RGC irrespective of the funding source for a period of three years from the expiry of the Bid Validity, unless, at the bidder's option, the bidder pays to the Employer an administrative penalty of two (2) percent of the total bid amount.

17. Format and signing of bids

- 17.1. The Bidder shall prepare one original of the documents comprising the Bid as described in ITB Clause 13 of these Instructions to Bidders, bound with the volume containing the Form of Bid, and clearly marked "ORIGINAL." In addition, the Bidder shall submit three copies of the Bid clearly marked as "COPIES." In the event of discrepancy between them, the original shall prevail.
- 17.2. The original and all copies of the Bid shall be typed or written in indelible ink and shall be signed by a person or persons duly authorized to sign on behalf of the Bidder, in accordance with ITB Sub Clause 6.1 (c) as the case may be. All

pages of the Bid where entries or amendments have been made shall be initialed by the person or persons signing the Bid.

- 17.3. The Bid shall contain no alterations or additions, except those to comply with instructions issued by the Employer, or as necessary to correct errors made by the Bidder, in which case such corrections shall be initialed by the person or persons signing the Bid.
- 17.4. The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract. Any failure or omission in this respect may result in the rejection of the Bidder's Bid.

D. SUBMISSION OF THE BIDS

18. Sealing and marking of bids

- 18.1. The Bidder shall seal the original and all copies of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPIES."
- 18.2. The inner and outer envelopes shall
 - (a) be addressed to the Employer at the address provided in the **BDS**;
 - (b) bear the name and identification number of the Contract as defined in the **SCC**; and
 - (c) provide a warning "DO NOT OPEN BEFORE " the specified time and date for Bid opening as defined in the ITB Sub Clause 21.1.
- 18.3. If any envelope is not sealed and marked as required, the Employer shall assume no responsibility for the misplacement or premature opening of the bid.
- 18.4. In addition to the identification required in ITB Sub Clause 18.2 the inner envelopes shall indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared late, pursuant to ITB Sub Clause 19.3 .

19. Deadline for submission of bids

- 19.1. Bids shall be delivered to the Employer at the specified address, and no later than the date and time, indicated in the **BDS**.
- 19.2. The Employer may, at its discretion, extend the deadline for the submission of Bids by issuing an addendum in accordance with ITB Clause 11, in which case all rights and obligations of the Employer and Bidders previously subject to the deadline shall then be subject to the new deadline.
- 19.3. Any Bid received by the Employer after the deadline prescribed in ITB Sub Clause 19.1 or 19.2, as applicable, will be rejected and returned unopened to the Bidder.

20. Modification and withdrawal of bids

- 20.1. Bidders may modify or withdraw their bids by giving notice in writing before the deadline prescribed in ITB Sub Clause 19.1 or 19.2, as applicable.

- 20.2. Each Bidder's modification or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with ITB Clauses 17, and 18, with the outer and inner envelopes additionally marked "MODIFICATION" or "WITHDRAWAL," as appropriate.
- 20.3. Withdrawal of a Bid between the deadline for submission of bids and within the Bid's validity (and extended validity when a bidder agrees to such) may result in the forfeiture of the Bid Security or execution of the Bid Securing Declaration pursuant to ITB Sub Clause 16.8(a). No Bid may be modified after the deadline for submission of Bids.
- 20.4. Any discount offered must be unconditional. If offered, the discounts and the methodology for their application shall be quoted in the Bid Submission Form, or in a separate letter of discount which must be referenced and attached to the Bid Submission Form, bear the bidder's official letterhead and stamp, dated and signed by the bidder's authorized representative and enclosed in the sealed envelope containing the bid

21. Bid opening

- 21.1. The Employer will open the bids, including modifications made pursuant ITB Clause 20 in the presence of the bidders' representatives who choose to attend at the time and in the place specified in the **BDS**.
- 21.2. Envelopes marked "WITHDRAWAL" shall be opened and read out first. Bids for which an acceptable notice of withdrawal has been submitted pursuant to ITB Clause 20 shall not be opened but returned to the Bidder.
- 21.3. All other envelopes shall be opened one at a time, reading out the name of the bidders and if there is any modification; the Bid Prices, including any unconditional discounts quoted in the Bid Submission Form or in a separate letter of discount referenced and attached to the Bid Submission Form; any alternate offers, if allowed; the presence of the Bid Security Declaration or Bid Security, if required; and any other details the Purchaser may consider appropriate. Only unconditional discounts and alternative offers, if allowed, read out at the bid opening shall be considered for evaluation. No bids shall be rejected at bid opening except for late bids in accordance with ITB Sub Clause 19.3.
- 21.4. Bids (and modifications) that are not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances¹²
- 21.5. The Employer will prepare minutes of the Bid opening, including the information disclosed to those present in accordance with ITB Sub Clause 21.3 announced by the Employer at the opening. Immediately upon conclusion of the bid opening proceedings, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening. In addition, a copy of the minutes shall promptly be posted at a prominent and freely accessible location outside the office of the Employer, and also sent to all those who purchased the bidding documents but were not present at the bid opening.

E. EVALUATION OF BIDS

22. Process to be confidential

- 22.1. Information relating to the examination, clarification, evaluation, and comparison of bids and recommendations for the award of a contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the award to the successful Bidder has been announced.
- 22.2. Any effort by a Bidder to influence the Employer's processing of bids or award decisions may result in the rejection of its Bid.
- 22.3. From the time of bid opening to the time of contract award, if any bidder wishes to contact the Employer on any matter related to the bid, it should do so in writing

23. Clarification of bids

- 23.1. To assist in the examination, evaluation, and comparison of bids, the Employer may, at the Employer's discretion, ask any Bidder for clarification of the Bidder's Bid, including breakdowns of unit rates. The request for clarification and the response shall be in writing or by cable, telex, or facsimile, but no change in the price or substance of the Bid shall be sought, offered, or permitted except as required to confirm the correction of arithmetic errors discovered by the Employer in the evaluation of the bids in accordance with ITB Clause 25.

24. Preliminary examination of bids

- 24.1. If any of the following documents or information is missing from the submitted Bid, the Bid shall be rejected:
 - (a) Signed (in original) Form of Bid, in the format indicated in Section II;
 - (b) Bid Security or Bid Securing Declaration, in accordance with ITB Clause 16; and
 - (c) Priced Bill of Quantities¹³, in accordance with ITB Clause 14
- 24.2. Prior to the detailed evaluation of bids, the Employer will determine whether each Bid
 - (a) meets the eligibility criteria defined in ITB Clause 4;
 - (b) has been properly signed; and
 - (c) is substantially responsive to the requirements of the bidding documents.

¹³ For lump sum contracts delete "Bill of Quantities" and replace it with "Activity Schedule"

- 24.3. A substantially responsive Bid is one which conforms to all the terms, conditions, and specifications of the bidding documents, without material deviation or reservation. A material deviation or reservation is one
- (a) which affects in any substantial way the scope, quality, or performance of the Works;
 - (b) which limits in any substantial way, inconsistent with the bidding documents, the Employer's rights or the Bidder's obligations under the Contract; or
 - (c) whose rectification would affect unfairly the competitive position of other bidders presenting substantially responsive bids.
- 24.4. If a Bid does not meet the eligibility criteria defined in ITB Clause 4, has not been properly signed; or is not substantially responsive, it will be rejected by the Employer, and may not subsequently be made responsive by correction or withdrawal of the nonconforming deviation or reservation.

25. Correction of errors

- 25.1. Bids determined to be substantially responsive will be checked by the Employer for any arithmetic errors. Errors will be corrected by the Employer as follows:
- (a) where there is a discrepancy between the amounts in figures and in words, the amount in words will govern; and
 - (b) where there is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern, unless in the opinion of the Employer there is an obviously gross misplacement of the decimal point in the unit rate, in which case the line item total as quoted will govern, and the unit rate will be corrected; and
 - (c) where there is a discrepancy between the sub-total and the total resulting from adding the sub-totals, the sub-total as quoted will govern.

26. Evaluation of responsive bids

- 26.1. The Employer will evaluate and compare only the bids determined to be substantially responsive in accordance with ITB Sub Clause 24.3
- 26.2. In evaluating the bids, the Employer will determine for each Bid the evaluated Bid price by adjusting the Bid price as follows:
- (a) making any correction for errors pursuant to ITB Clause 25
 - (b) excluding provisional sums and the provision, if any, for contingencies in the Bill of Quantities¹⁴, but including Day-work, where priced competitively;

¹⁴ For lump sum contracts deleted "Bill of Quantities" and replace it with "Activity Schedule"

- (c) making an appropriate adjustment for any other acceptable variations, deviations, submitted in accordance with ITB Sub Clause 26.3; and
- (d) making appropriate adjustments to reflect discounts or other price modifications offered in accordance with ITB Sub Clause 20.4 .

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

F. POST QUALIFICATION AND AWARD

27. Post qualification

- 27.1. After completing the evaluation of responsive bids, the Employer shall determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated and substantially responsive Bid is qualified to perform the Contract satisfactorily.
- 27.2. The determination shall be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder pursuant to ITB Sub Clauses 6.1 and 6.2 , and his clarifications in accordance with ITB Sub Clause 23.1 .
- 27.3. An affirmative determination shall be a prerequisite for award of the Contract to the Bidder. A negative determination shall result in disqualification of the Bid, in which event the Employer shall proceed to the next lowest evaluated bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

28. Employers right accept or reject any bid

- 28.1. The Employer reserves the right to accept or reject any Bid, and to annul the bidding process and reject all Bids at any time prior to Contract award, without thereby incurring any liability to the Bidders, or any obligation to inform the affected Bidders of the grounds for the Employer's action.

29. Award Criteria

- 29.1. Subject to ITB Sub Clause 26 the Employer shall award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bidding Document and has offered the lowest evaluated Bid, provided that the Bidder has likewise been determined to be qualified to perform the Contract satisfactorily.

30. Notification of Award and Signing of the Agreement

- 30.1. The Bidder whose Bid has been accepted shall be notified of the award by the Employer, prior to the expiration of the bid validity period, through the Letter of Acceptance which form is provided in Section VIII. This letter will state the sum that the Employer will pay the Contractor in consideration of the execution, completion, and maintenance of the Works by the Contractor as

prescribed by the Contract (hereinafter and in the Contract called the “Contract Price”).

- 30.2. Until a formal Contract is prepared and executed, the notification of award shall constitute a binding Contract.
- 30.3. Within fourteen (14) calendar days following the notification of award along with the Letter of Acceptance, the Employer shall send to the successful Bidder a signed Agreement that incorporates all agreements between the Employer and the successful Bidder. The successful bidder shall sign and return the contract within fourteen (14) calendar days.

31. Performance Security

- 31.1. Within fourteen (14) calendar days of the receipt of notification of award and Letter of Acceptance from the Employer, the successful Bidder shall furnish the Performance Security in the form of a Bank Guarantee in an amount specified in the SCC, denominated in the currency of the Contract, and in accordance with the Conditions of Contract.
- 31.2. The Performance Security in the form of a Bank Guarantee shall be issued by a bank located in Cambodia.
- 31.3. Failure of the successful Bidder to comply with the requirements of ITB Sub Clause 31.1 shall constitute sufficient grounds for cancellation of the award and forfeiture of the Bid Security or execution of the Bid Securing Declaration.
- 31.4. Upon receipt of the Performance Security, the Employer will promptly notify the other bidders of the results of the bidding.

32. Advance Payment

- 32.1. The Employer will provide an Advance Payment on the Contract Price as stipulated in the Conditions of Contract, subject to a maximum amount, as stated in the Special Conditions of Contract and subject to the provision of an acceptable advance payment security.

33. Adjudication

- 33.1. The Employer 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 proposal, the Bidder should so state in the Bid. If, in the Letter of Acceptance, the Employer has not agreed on the appointment of the Adjudicator, the Adjudicator shall be appointed by the Appointing Authority designated in the Conditions of Contract at the request of either party.

34. Debriefing

- 34.1. After the award of contract has been announced an unsuccessful bidder has the right to request a debriefing, in writing, to ascertain why its bid was unsuccessful and the Employer the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection..
- 34.2. Within 14 calendar days of a bidder’s request for Debriefing, the Debriefing will either be delivered in writing by the Employer or a meeting held chaired

by a representative of the Employer at the discretion of the Employer. If a meeting is held the deliberations will be recorded in the form of minutes which signed by both parties and a copy of the minutes issued to the bidder.

35.Complaints

- 35.1. A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints received during the evaluation period will be reviewed by the Employer and a response issued only after the evaluation is completed.
- 35.2. Complaints shall be addressed to the Employer's Project Manager named in the **BDS with a copy sent to Director, Department of Investment and Cooperation, Ministry of Economy and Finance**. The Project Manager will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint.
- 35.3. In the event that the response from the Project Manager does not satisfy the unsuccessful bidder or there is no response the complaint received within 14 calendar days, the complaint should be referred to the Director, Department of Public Procurement, Ministry of Economics and Finance, 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia with a copy sent to the representatives of the Development Partner indicated in the **BDS**. This is without prejudice to any other recourse that a bidder may choose.

36.Publication of Award

- 36.1. The Employer shall:
 - (a) notify in writing all participating bidders of the results of the bid evaluation promptly after the contract has been awarded, and
 - (b) publish in a national newspaper, at the end of each quarter, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Employer.

Section II, Bid Data Sheet

A. General	
ITB 1.1	The Employer is <i>[insert name of Employer]</i>
ITB 1.1	The Works are: <i>[insert brief description of the works]</i>
ITB 1.1	The Contract Description and Identification are: <i>[insert name and identification number of the contract]</i>
ITB 1.2	The Intended Completion Date is: <i>[insert contract implementation period]</i> calendar days after the award of the contract.
ITB 2.1	The Development Partner is: <i>[insert name of DP]</i>
ITB 2.1	The Project is <i>[insert name and summary description of the Project financed by the loan, grant or credit]</i> The loan/credit/grant number is <i>[insert number if available]</i> .
ITB 4.1	Eligible Bidders, Refer to GCC 1.2. For the purpose of this ITB Bidder means Contractor and vice-versa.
ITB 5.1	The limit for sub-contractors is <i>[insert percentage, usually no more than 30%]</i>
ITB 6.1	The qualification data requirements from bidders are modified as follows: <i>[list any additions or deletions to list, otherwise list "no additional or modified requirements"]</i> .
ITB 6.1b	State requirements like tax registration and other such legal requirements
ITB 6.2	The additional or modified requirements for joint ventures are as follows: <i>[list any additions or deletions to list; otherwise state "no additional or modified requirements"]</i>
ITB 6.3 (a)	The average annual volume of construction work of the successful Bidder over the last 3 years shall be: <i>[insert amount which should be no less than 1.5 times the estimated value of the contract- calculate and put a figure]</i> .
ITB 6.3 (c)	The minimum amount of liquid assets and/or credit facilities net of other contractual commitments of the successful Bidder shall be: <i>[insert amount which should be no less than 3 months of estimated cash flow of the contract]</i> .

ITB 6.3 (d)	List here the essential equipment required: <i>[list the minimum key equipment that the contractor is required to make available for the contract]</i> .
ITB 6.3 (f)	List here any additional qualification requirements: <i>[or state “no additional requirements”]</i>
ITB 7.1	Select one deleting the other The Employer will not hold a pre-bid conference or The Employer will hold a pre-bid conference <i>[insert date, time, venue and address]</i>
ITB 12.1	If the bid document in English is not to be used, then a Khmer translation version will need to be prepared. If this happens state: The language used is Khmer
ITB 14.4	The Contract [specify “is” or “is not”] subject to price adjustment ¹⁵ in accordance with Clause 43.1 of the SCC
C Preparation of bids	
ITB 15.1	The Bid shall be valid for 90 calendar days <i>[can insert number of calendar days between 45 and 90]</i>
ITB 16.1	<i>[Select one of the following options and delete the other. The Employer should select Option a) Bid-Securing Declaration as a default for all cases.]</i> a) Bid shall include a Bid-Securing Declaration using the form included in Section IX, Security Forms OR b) Bid shall be accompanied with a Bid Security using the form for bid security (bank guarantee) included in Section IX, Security Forms in the amount of: <i>[insert amount in US\$ which should be the same as provided in the Invitation to Bid]</i> .
ITB16.2	<i>The validity of the bid security should be beyond.....[give a date which is 30 calendar days from the date of expiry of validity of bid]</i>
ITB 18.2 (a)	The Employer’s address for the purpose of Bid submission is <i>[insert the receiving address provided in the Invitation for Bids]</i>

15

Price adjustment is mandatory when the expected completion time exceeds 18 months.

ITB 18.2 (b)	Name and Identification Number of the contract is as given in ITB 1.1 above in this BDS.
ITB 19.1	The deadline for submission of bids shall be <i>[insert time and date]</i> .
ITB 21.1	<p>The bid opening shall take place at: <i>[insert complete address including room # which should be the same as provided in the Invitation for Bids.]</i></p> <p>Date and Time of bid opening: <i>[insert date and time which should be the same as provided in the Invitation for Bids]</i></p>
F Post qualification and award	
ITB 33.1	Name of Adjudicator proposed by Employer is <i>[insert name and address]</i> , the hourly fee is <i>[insert fee]</i> , the biographical data of the proposed Adjudicator is as below: <i>[provide relevant information, such as education, experience, age, nationality, and present position; attach additional pages as necessary. The proposed adjudicator should not be a serving government official.]</i>
ITB 35.2	The address for sending complaints to the Project Manager is <i>[Insert name, title and address including telephone, fax and email]</i>
ITB 35.3	<p>The address for forwarding complaints to the Department of Public Procurement is <i>[insert title and address including telephone, fax no. and email of the concerned DPP official]</i>.</p> <p>The address for copying complaints to the Department of Investment and Cooperation is <i>[insert title and address including telephone, fax no. and email of the concerned DIC official]</i>.</p> <p>The address for copying complaints to the Development Partner is: <i>[Insert name, title and address including telephone, fax and email of the Task Team Leader of the DP]</i>.</p>

Section III, General Conditions of Contract

The General Conditions of Contract (GCC), read in conjunction with the Special Conditions of Contract and other documents listed therein, should be a complete document expressing fairly the rights and obligations of both parties.

The form of General Conditions of Contract that follows has been developed on the basis of considerable international experience in the drafting and management of contracts, bearing in mind a trend in the construction industry towards simpler, more straightforward language.

The form can be used directly for smaller measurements contracts and, with the modifications noted in the footnotes, it can be adapted for lump sum contracts.

The use of standard General Conditions of Contract for building and civil works shall promote comprehensiveness of coverage, general acceptability of its provisions, savings in cost and time in Bid preparation and review, and the development of a solid background of legal case histories.

Table of Contents

A.GENERAL.....	32
Definitions.....	32
Interpretation.....	34
Language and law.....	34
Communications	34
B.THE CONTRACTORS RIGHTS, OBLIGATIONS AND RESPONSIBILITIES	35
Contractor to construct the Works	35
Works to be completed by the intended Completion Date.....	35
Liquidated damages	35
Temporary works	35
Safety, security and the environment	35
Access to site.....	36
Discovery	36
Instructions and audit	36
Personnel.....	36
Subcontracting.....	36
Other contractors	37
Contractor's risks	37
Insurance	37
Drawings and manuals	37
Performance security	38
C.THE EMPLOYERS RIGHTS, OBLIGATIONS AND RESPONSIBILITIES	38
Possession of site	38
The Project Manager's decisions.....	38
Delegation	38
Queries about the Contract.....	38
Licenses and permits	38
Approval by the Project Manager	38
Employer's risks.....	38
D.CONTRACT MANAGEMENT.....	39
Program.....	39
Acceleration	39
Suspension of Works	40
Management meeting.....	40
Extension of time.....	40
Variations	40
Completion	41
Day-works.....	41
Early warning	41
Resolution of disputes	41
E.QUALITY CONTROL.....	42
Identifying defects	42
Tests	42

Correction of defects.....	42
Cost of repairs.....	43
F.COST CONTROL	43
Bill of Quantities	43
Taxes and duties.....	43
G.PAYMENTS TO THE CONTRACTOR	44
Payment and currency	44
Advance payment.....	44
Payment certificates.....	44
Compensation Events.....	45
Retention	46
Final payment.....	46
H.TERMINATION.....	46
Frustration.....	46
Default by the Contractor	47
Default by the Employer.....	47
Parties right to terminate	47
Payment on termination	48
Fraud and Corruption.....	49

A. GENERAL

1. Definitions

- 1.1. Boldface type is used to identify defined terms.
- 1.2. **Eligible** contractors, subcontractors, materials, equipment and services are those defined in the SCC
- 1.3. The **Contractor's Bid** is the completed bidding document submitted by the Contractor to the Employer.
- 1.4. **Bill of Quantities**¹⁶ means the priced and completed Bill of Quantities forming part of the Bid.
- 1.5. The **Contract** is the Contract between the Employer and the Contractor as referenced in the SCC.
- 1.6. The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
- 1.7. **Drawings** include calculations and other information provided or approved by the Project Manager for the execution of the Contract.
- 1.8. **Letter of Acceptance** means the formal acceptance by the Employer of the Bid and denotes the formation of the Contract.
- 1.9. **Specification** means the Specification of the Works included in the Contract and any modification or addition made or approved by the Project Manager.
- 1.10. The **Adjudicator** is the person appointed jointly by the Employer and the Contractor to resolve disputes in the first instance, as provided for in GCC Clause 36.2 hereunder.
- 1.11. The **Contractor** is a person or corporate body, defined in the SCC who's Bid to carry out the Works has been accepted by the Employer.
- 1.12. The **Employer** is the party defined in the SCC who employs the Contractor to carry out the Works.
- 1.13. A **Subcontractor** is a person or corporate body who has a Contract with the Contractor to carry out a part of the work in the Contract, which includes work on the Site.
- 1.14. The **Development Partner** is the agency that has lent or credited (or will do so) the RGC the funds covering this contract and is not a party to this contract.
- 1.15. The **Project Manager** is the person named in the SCC (or any other competent person appointed by the Employer and notified to the Contractor, to act in replacement of the Project Manager) who is responsible for supervising the execution of the Works and administering the Contract
- 1.16. The **Contractor's Representative** is the person named in the SCC authorized to receive instructions on behalf of the Contractor. The Contractor's Representative may be changed at the discretion of the Contractor by notifying the Project Manager in writing.

¹⁶ Replace both references to "Bill of Quantities" to "Activity Schedule" in the case of lump sum contracts where the Activity Schedule shall replace the Bill of Quantities

- 1.17. The **Start Date** is given in the **SCC**. It is the latest date when the Contractor shall commence execution of the Works. It does not necessarily coincide with any of the Site Possession Dates.
- 1.18. The **Intended Completion Date** is the date on which it is intended that the Contractor shall complete the Works. The Intended Completion Date is specified in the Contract Data. The Intended Completion Date may be revised only by the Project Manager by issuing an extension of time or an acceleration order.
- 1.19. **Days** are calendar days; months are calendar months.
- 1.20. The **Defects Liability Period** is the period named in the **SCC** and calculated from the Completion Date.
- 1.21. The **Defects Liability Certificate** is the certificate issued by Project Manager upon correction of defects by the Contractor.
- 1.22. **Day-works** are varied work inputs subject to payment on a time basis for the Contractor's employees and Equipment, in addition to payments for associated Materials and Plant.
- 1.23. The **Completion Date** is the date of completion of the Works as certified by the Project Manager, in accordance with GCC Clause 33.
- 1.24. The **Contract Price** is the price stated in the Letter of Acceptance and thereafter as adjusted in accordance with the provisions of the Contract.
- 1.25. **Retention Money** means the aggregate of all monies retained by the Employer pursuant to GCC Clause 47
- 1.26. **Compensation Events** are those defined in GCC Clause 43.1 hereunder.
- 1.27. **Equipment** is the Contractor's machinery and vehicles brought temporarily to the Site to construct the Works.
- 1.28. A **Defect** is any part of the Works not completed in accordance with the Contract.
- 1.29. **Force Majeure** means an exceptional event or circumstance: which is beyond a Party's control; which such Party could not reasonably have provided against before entering into the Contract; which, having arisen, such Party could not reasonably have avoided or overcome; and, which is not substantially attributable to the other Party.
- 1.30. **Materials** are all supplies, including consumables, used by the Contractor for incorporation in the Works.
- 1.31. **Plant** is any integral part of the Works that shall have a mechanical, electrical, chemical, or biological function.
- 1.32. The **Site** is the area defined as such in the **SCC**.
- 1.33. **Site Investigation Reports** are those that were included in the bidding documents, listed in the **SCC** and are factual and interpretative reports about the surface and subsurface conditions at the Site. The Contractor, in preparing the Bid, shall be understood to have relied on any Site Investigation Reports, supplemented by any information available at the time of bidding.
- 1.34. **Temporary Works** are works designed, constructed, installed, and removed by the Contractor that are needed for construction or installation of the Works.

- 1.35. A **Variation** is an instruction given by the Project Manager which varies the Works.
- 1.36. The **Works** are what the Contract requires the Contractor to construct, install, and turn over to the Employer, as defined in the **SCC**.
- 1.37. In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.

2. Interpretation

- 2.1. In interpreting these Conditions of Contract, singular also means plural, male also means female or neuter, and the other way around. Headings have no significance. Words have their normal meaning under the language of the Contract unless specifically defined. The Project Manager will provide instructions clarifying queries about these Conditions of Contract.
- 2.2. If sectional completion is specified in the SCC, references in the Conditions of Contract to the Works, the Completion Date, and the Intended Completion Date apply to any Section of the Works (other than references to the Completion Date and Intended Completion Date for the whole of the Works).
- 2.3. The documents forming the Contract shall be interpreted in the following order of priority:
 - (a) Agreement,
 - (b) Letter of Acceptance,
 - (c) Contractor's Bid,
 - (d) Special Conditions of Contract,
 - (e) General Conditions of Contract,
 - (f) Specifications,
 - (g) Drawings,
 - (h) Bill of Quantities, and
 - (i) Any other document listed in the SCC as forming part of the Contract.

3. Language and law

- 3.1. The language of the Contract is English, and the law governing those in force in the Kingdom of Cambodia.

4. Communications

- 4.1. Communications between parties that are referred to in the Conditions shall be effective only when in writing. A notice shall be effective only when it is delivered to either the Project Manager or the Contractors Representative indicated in GCC Clauses 1.16 and 1.17.

B. THE CONTRACTORS RIGHTS, OBLIGATIONS AND RESPONSIBILITIES

5. Contractor to construct the Works

- 5.1. The Contractor shall construct and install the Works in accordance with the Specifications and Drawings.

6. Works to be completed by the intended Completion Date

- 6.1. The Contractor shall commence the Works on the Commencement Date and shall proceed expeditiously and without delay and complete them by the Intended Completion Date.

7. Liquidated damages

- 7.1. The Contractor shall pay liquidated damages to the Employer at the rate of 1/10 of one percent of the contract amount for each day that the Completion Date is later than the Intended Completion Date. The total amount of liquidated damages shall not exceed ten percent of the contract value. The Employer may deduct liquidated damages from payments due to the Contractor. Payment of liquidated damages shall not affect the Contractor's liabilities.
- 7.2. If the Intended Completion Date is extended after liquidated damages have been paid, the Project Manager shall correct any overpayment of liquidated damages by the Contractor by adjusting the next payment certificate.

8. Temporary works

- 8.1. The Contractor shall be responsible for design of Temporary Works.
- 8.2. The Contractor shall obtain approval of the Project Manager and third parties (where required) to the design of the Temporary Works.

9. Safety, security and the environment

- 9.1. The Contractor shall:
 - (a) provide all warning signs and provide, erect, maintain and when no longer required remove all barricades, fencing, temporary roadways and footpaths, signs and lighting necessary for the effective protection of property, for traffic and for the safety of others;
 - (b) at all times carry out the Works so as to prevent any damage to or pollution of the environment at the Site and any immediate adjoining areas. In the event that damage to or pollution of the environment is a consequence of the Contractor's negligence in carrying out the Works, the Contractor shall at his expense make good the damage or pollution caused.
- 9.2. The Contractor shall use every reasonable means to prevent damage by the Contractor's equipment to any roads and bridges adjacent to or on route to the Site.
- 9.3. Where the Works are being carried out to a public highway, if instructed by the Project Manager, the Contractor shall provide periodic access for the public to the project road. Any additional work required to provide such access shall be valued as a Variation under GCC Clause 32.

- 9.4. The Contractor shall take all reasonable steps to keep the Site and the Works in an orderly state, free from all rubbish and debris, and in such a condition as to avoid danger to persons and property.
- 9.5. The Contractor shall be responsible for the safety of all activities on the Site.

10. Access to site

- 10.1. The Contractor shall allow the Project Manager and any person authorized by the Project Manager access to the Site and to any place where work in connection with the Contract is being carried out or is intended to be carried out.

11. Discovery

- 11.1. Anything of historical or other interest or of significant value discovered on the Site shall be the property of the Employer. The Contractor shall notify the Project Manager of such discoveries and carry out the Project Manager's instructions for dealing with them.

12. Instructions and audit

- 12.1. The Contractor shall carry out all instructions of the Project Manager which comply with the applicable laws where the Site is located.
- 12.2. The Contractor shall permit the Employer or the Development Partner as indicated in the Bidding Documents to inspect the Contractor's accounts and records relating to the performance of the Contract and to have them audited by auditors appointed by either the Government of Cambodia or the Development Partner.

13. Personnel

- 13.1. The Contractor shall employ the key personnel named in the Schedule of Key Personnel, as referred to in the SCC, to carry out the functions stated in the Schedule or other personnel approved by the Project Manager. The Project Manager will approve any proposed replacement of key personnel only if their relevant qualifications and abilities are substantially equal to or better than those of the personnel listed in the Schedule.
- 13.2. If the Project Manager asks the Contractor to remove a person who is a member of the Contractor's staff or work force, stating reasons and citing examples of a lack of professional competence or personal misconduct, the Contractor shall ensure that the person leaves the Site within seven calendar days and has no further connection with the work in the Contract.
- 13.3. During continuance of the contract, the Contractor and his subcontractors shall abide at all times by all labor laws, including child labor related enactments, and other relevant rules

14. Subcontracting

- 14.1. The Contractor may subcontract to the limits and parties indicated in its bid without the prior approval of the Project Manager. Subcontracting outside of that specifically described in the Contractor's Bid shall require the Project Manager's prior written approval. The Contract may not be assigned to any other party. The Contractor shall be liable for the work of any and all Subcontractors employed by the Contractor.

15. Other contractors

- 15.1. The Contractor shall cooperate and share the Site with other contractors, public authorities, utilities, and the Employer between the dates given in the Schedule of Other Contractors, as referred to in SCC. The Contractor shall also provide facilities and services for them as described in the Schedule. The Employer may modify the Schedule of Other Contractors, and shall notify the Contractor of any such modification.

16. Contractor's risks

- 16.1. From the Starting Date until the Defects Correction Certificate has been issued, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Materials, and Equipment) which are not Employer's risks are Contractor's risks.

17. Insurance

- 17.1. The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the Defects Liability Period, in the amounts and deductibles stated in the SCC for the following events which are due to the Contractor's risks:
 - (a) loss of or damage to the Works, Plant, and Materials;
 - (b) loss of or damage to Equipment;
 - (c) loss of or damage to property (except the Works, Plant, Materials, and Equipment) in connection with the Contract; and
 - (d) personal injury or death
- 17.2. Policies and certificates for insurance shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date. All such insurance shall provide for compensation to be payable in the types and proportions of currencies required to rectify the loss or damage incurred.
- 17.3. Alterations to the terms of insurance shall not be made without the approval of the Project Manager.
- 17.4. Both parties shall comply with any conditions of the insurance policies.
- 17.5. If the Contractor does not provide any of the policies and certificates required, the Employer may effect the insurance which the Contractor should have provided and recover the premiums the Employer has paid from payments otherwise due to the Contractor or, if no payment is due, the payment of the premiums shall be a debt due.

18. Drawings and manuals

- 18.1. If "as built" Drawings and/or operating and maintenance manuals are required, the Contractor shall supply them prior to the issue of the Certificate of Completion. If the Contractor does not supply the Drawings and/or manuals by the dates stated, or they do not receive the Project Manager's approval, the Project Manager shall be entitled to withhold the return of the first portion of the retention monies described in GCC Clause 47.2.

19. Performance security

- 19.1. The Performance Security shall be provided to the Employer no later than 14 calendar days after the Contractor's receipt of the Letter of Acceptance and shall be issued in an amount and form described in the SCCs. The Performance Security shall be valid until a date 28 calendar days from the date of issue of the Certificate of Completion.

C. THE EMPLOYERS RIGHTS, OBLIGATIONS AND RESPONSIBILITIES

20. Possession of site

- 20.1. The Employer shall give possession of all parts of the Site to the Contractor. If possession of a part is not given by the date stated in the Contract Data, the Employer will be deemed to have delayed the start of the relevant activities, and this will be a Compensation Event.

21. The Project Manager's decisions

- 21.1. Except where otherwise provided in Clause 36 the Project Manager will decide contractual matters between the Employer and the Contractor in the role representing the Employer.

22. Delegation

- 22.1. The Project Manager may delegate any of his duties and responsibilities to other people, except to the Adjudicator, after notifying the Contractor, and may cancel any delegation after notifying the Contractor.

23. Queries about the Contract

- 23.1. The Project Manager will clarify queries on the Contract.

24. Licenses and permits

- 24.1. The Employer shall, if requested by the Contractor, assist him in applying for permits, licenses or approvals, which are required for the Works. However obtaining the necessary permits, licenses and approvals shall be the sole responsibility of the Contractor unless the issue of such is at the discretion of the Employer. No delay in obtaining any permit, license or approval that was in force on the date of the invitation for bids will be considered as a force majeure event.

25. Approval by the Project Manager

- 25.1. All drawings, specifications and designs for works whether temporary or permanent prepared by the Contractor shall be subject to the prior approval of the Project Manager, who is to approve them if they comply with the Specifications and Drawings. Such approval if granted will in no way remove the Contractor's responsibility and liabilities for the design of such works.

26. Employer's risks

- 26.1. From the Start Date until the Defects Correction Certificate has been issued, the following are Employer's risks:
- (1) The risk of personal injury, death, or loss of or damage to property (excluding the Works, Plant, Materials, and Equipment), which are due to

- (a) use or occupation of the Site by the Works or for the purpose of the Works, which is the unavoidable result of the Works or
 - (b) negligence, breach of statutory duty, or interference with any legal right by the Employer or by any person employed by or contracted to him except the Contractor.
 - (2) The risk of damage to the Works, Plant, Materials, and Equipment to the extent that it is due to a fault of the Employer or in the Employer's design, or due to war or radioactive contamination directly affecting the country where the Works are to be executed
- 26.2. From the Completion Date until the Defects Correction Certificate has been issued, the risk of loss of or damage to the Works, Plant, and Materials is an Employer's risk except loss or damage due to
- a Defect which existed on the Completion Date,
 - an event occurring before the Completion Date, which was not itself an Employer's risk, or
 - the activities of the Contractor on the Site after the Completion Date

D. CONTRACT MANAGEMENT

27. Program

- 27.1. Within the time stated in the SCC, the Contractor shall submit to the Project Manager for approval a Program showing the general methods, arrangements, order, and timing for all the activities in the Works.
- 27.2. An update of the Program shall be a program showing the actual progress achieved on each activity and the effect of the progress achieved on the timing of the remaining work, including any changes to the sequence of the activities.
- 27.3. The Contractor shall submit to the Project Manager for approval an updated Program at intervals no longer than the period stated in the SCC. If the Contractor does not submit an updated Program within this period, the Project Manager may withhold the amount stated in the Contract Data from the next payment certificate and continue to withhold this amount until the next payment after the date on which the overdue Program has been submitted.
- 27.4. The Project Manager's approval of the Program shall not alter the Contractor's obligations. The Contractor may revise the Program and submit it to the Project Manager again at any time. A revised Program shall show the effect of Variations and Compensation Events.

28. Acceleration

- 28.1. When the Employer wants the Contractor to finish before the Intended Completion Date, the Project Manager will obtain priced proposals for achieving the necessary acceleration from the Contractor. If the Employer accepts these proposals, the Intended Completion Date will be adjusted accordingly and confirmed by both the Employer and the Contractor.

- 28.2. If the Contractor's priced proposals for acceleration are accepted by the Employer, they are incorporated in the Contract Price and treated as a Variation.

29. Suspension of Works

- 29.1. The Project Manager may instruct the Contractor to delay the start or progress of any activity within the Works.

30. Management meeting

- 30.1. Either the Project Manager or the Contractor may require the other to attend a management meeting. The business of a management meeting shall be to review the plans for remaining work and to deal with matters raised in accordance with the early warning procedure.
- 30.2. The Project Manager shall record the business of management meetings and provide copies of the record to those attending the meeting and to the Employer. The responsibility of the parties for actions to be taken shall be decided by the Project Manager either at the management meeting or after the management meeting and stated in writing to all who attended the meeting.

31. Extension of time

- 31.1. The Project Manager shall extend the Intended Completion Date if a Compensation Event occurs or a Variation is issued which makes it impossible for Completion to be achieved by the Intended Completion Date without the Contractor taking steps to accelerate the remaining work, which would cause the Contractor to incur additional cost.
- 31.2. The Project Manager shall decide whether and by how much to extend the Intended Completion Date within 14 calendar days of the Contractor asking the Project Manager for a decision upon the effect of a Compensation Event or Variation and submitting full supporting information. If the Contractor has failed to give early warning of a delay or has failed to cooperate in dealing with a delay, the delay by this failure shall not be considered in assessing the new Intended Completion Date.

32. Variations

- 32.1. All Variations shall be included in updated Programs produced by the Contractor.
- 32.2. The Contractor shall provide the Project Manager with a quotation for carrying out the Variation when requested to do so by the Project Manager. The Project Manager shall assess the quotation, which shall be given within seven calendar days of the request or within any longer period stated by the Project Manager and before the Variation is ordered.
- 32.3. When the works covered by such a Variation are on the critical path and the ordering is beyond seven calendar days, the time period beyond seven calendar days shall be added to the time for completion and be regarded as a delay ordered by the Project Manager in accordance with GCC Clause 45.1(c).
- 32.4. If the work in the Variation corresponds with an item description in the Bill of Quantities and if the quantity of work is below the limit stated in GCC Clause 41.3 or the timing of its execution do not cause the cost per unit of quantity to change, the rate in the Bill of Quantities shall be used to calculate

the value of the Variation. If the cost per unit of quantity changes above the limit stated in GCC Clause 41.3, or if the nature or timing of the work in the Variation does not correspond with items in the Bill of Quantities, the quotation by the Contractor shall be in the form of new rates for the relevant items of work¹⁷.

- 32.5. Where a variation is requested on the grounds of urgency to prevent damage to works, to the site or its immediate environment or for the safety of personnel on the site then the Project Manager may waive the requirements for quotation and the event shall be treated as a Compensation Event..

33.Completion

- 33.1. The Contractor shall request the Project Manager to issue a certificate of Completion of the Works.
- 33.2. Within 14 calendar days of the Contractor requesting a Certificate of Completion, the Project Manager shall either notify the Contractor that he considers that the Contractor has completed the Works stating the date accordingly or notify the Contractor of the remaining works to be completed.
- 33.3. The Employer shall take over the Site and the Works within seven calendar days of the Project Manager's issuing a Certificate of Completion.

34.Day-works

- 34.1. If applicable, the Day-works rates in the Contractor's Bid shall be used for small additional amounts of work only when the Project Manager has given written instructions in advance for additional work to be paid for in that way.
- 34.2. All work to be paid for as Day-works shall be recorded by the Contractor on forms approved by the Project Manager. Each completed form shall be verified and signed by the Project Manager within two calendar days of the work being done.

35.Early warning

- 35.1. A Party shall notify the other as soon as he is aware of any circumstance which may delay or disrupt the Works, or which may give rise to a claim for additional payment. The Contractor shall take all reasonable steps to minimize these effects.
- 35.2. The Contractor will promptly provide the Project Manager an estimate of the expected effect of the future event or circumstance on the Contract Price and Completion Date.
- 35.3. The Contractor shall not be entitled to additional payment for costs that could have been avoided by giving early warning when the Contractor was in a position to provide such warning.

36.Resolution of disputes

- 36.1. Unless settled amicably, any dispute or difference which arises between the Contractor and the Employer out of or in connection with the Contract,

¹⁷ In lump sum contracts, delete this paragraph

including any valuation or other decision of the Employer, shall be referred by either Party to an Adjudicator

- 36.2. The International Chamber of Commerce in Bangkok, Thailand may be asked by either party to provide the CV's of three available adjudicators, none of whom will be nationals of the Contractor's country should that country be other than Cambodia. Each party shall then strike off the name of one of the proposed adjudicators and the remaining one shall be appointed. If both parties strike off the same candidate then another round will take place until only one adjudicator remains.
- 36.3. If the Contractor believes that a decision taken by the Project Manager was either outside the authority given to the Project Manager by the Contract or that the decision was wrongly taken, the decision shall be referred to the Adjudicator within 14 days of the notification of the Project Manager's decision.
- 36.4. The Adjudicator shall be paid by the hour at the rate proposed by the ICC Thailand, together with reasonable expenses to cover accommodation, travel and communications as necessary. The cost shall be divided equally between the Employer and the Contractor, whatever decision is reached by the Adjudicator. Either party may refer a decision of the Adjudicator to an Arbitrator within 28 days of the Adjudicator's written decision. If neither party refers the dispute to arbitration within the above 28 days, the Adjudicator's decision will be final and binding.
- 36.5. All disputes arising in connection with the present Contract that cannot be resolved to the satisfaction of either one of the parties through adjudication may be referred to and settled under the Rules of Conciliation and Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules. The ruling of the Arbitrator shall be binding on both parties.

E. QUALITY CONTROL

37. Identifying defects

- 37.1. The Project Manager shall check the Contractor's work and notify the Contractor of any Defects that are found. Such checking shall not affect the Contractor's responsibilities. The Project Manager may instruct the Contractor to search for a Defect and to uncover and test any work that the Project Manager considers may have a Defect.

38. Tests

- 38.1. If the Project Manager instructs the Contractor to carry out a test not specified in the Specification to check whether any work has a Defect and the test shows that it does, the Contractor shall pay for the test and any samples. If there is no Defect, the test shall be a Compensation Event

39. Correction of defects

- 39.1. The Project Manager shall give notice to the Contractor of any Defects before the end of the Defects Liability Period, which begins at Completion, and is defined in the SCC. The Defects Liability Period shall be extended for as long as Defects remain to be corrected.

- 39.2. Every time notice of a Defect is given, the Contractor shall correct the notified Defect within the length of time specified by the Project Manager's notice. Any defect noticed by the Contractor shall be corrected by the Contractor before the expiry of the Defects Liability Period.
- 39.3. The Project Manager shall approve all corrected defects.
- 39.4. If the Contractor has not corrected a defect within the time specified in the Project Manager's notice, the Project Manager will correct it using a third party and the Contractor will pay this amount.

40. Cost of repairs

- 40.1. Loss or damage to the Works or Materials to be incorporated in the Works between the Start Date and the end of the Defects Correction periods shall be remedied by the Contractor at the Contractor's cost if the loss or damage arises from the Contractor's acts or omissions.

F. COST CONTROL

41. Bill of Quantities¹⁸

- 41.1. The Bill of Quantities¹⁹ shall contain items for the construction, installation, testing, and commissioning work to be done by the Contractor.
- 41.2. The Bill of Quantities is used to calculate the Contract Price. The Contractor is paid for the quantity of the work done at the rate in the Bill of Quantities for each item.
- 41.3. If the final quantity of the work done differs from the quantity in the Bill of Quantities for the particular item by more than 25 percent and one percent of the contract value, the parties shall agree upon an adjustment of the rate to allow for the change in accordance with the provisions for Variations.²⁰
- 41.4. The Project Manager shall not adjust rates for changes in quantities except with the prior approval of the Employer.

42. Taxes and duties

- 42.1. The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 calendar days before the submission of bids for the Contract and the date of the last Completion certificate. The

¹⁸ Replace reference to "Bill of Quantities" in the heading and text replacing it with "Activity Schedule" in the case of lump sum contracts

¹⁹ In lump sum contracts, delete 41.1 and 41.2 and replace them as , as follows:

41.1 The Contractor shall provide updated Activity Schedules within 14 calendar days of being instructed to by the Project Manager. The activities on the Activity Schedule shall be coordinated with the activities on the Program.

41.2 The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately

²⁰ In lump sum contracts, delete 41.3 and 41.4 and insert the following:

41.3 The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule

adjustment shall be the change in the amount of tax, duties and other levies payable by the Contractor, provided such changes are not already reflected in the Contract Price.

G. PAYMENTS TO THE CONTRACTOR

43. Payment and currency

- 43.1. If so specified in the SCC, the amounts certified in each payment certificate will be adjusted, before deducting for Advance Payment, by applying the respective price adjustment factor to the payment amounts due in each currency.
- 43.2. Payment shall be in the currency of the Contractor's Bid.

44. Advance payment

- 44.1. Should the Contractor request it, the Employer shall make advance payment to the Contractor of the amounts stated in the SCC within 28 calendar days after the provision by the Contractor of an Unconditional Bank Guarantee in a form and by a bank acceptable to the Employer in amounts equal to the advance payment. The Guarantee shall remain effective until the advance payment has been repaid, but the amount of the Guarantee shall be progressively reduced by the amounts repaid by the Contractor. Interest will not be charged on the advance payment.
- 44.2. The Contractor is to use the advance payment only to pay for Equipment, Plant, Materials, and mobilization expenses required specifically for execution of the Contract. The Contractor shall demonstrate that advance payment has been used in this way by supplying copies of invoices or other documents to the Project Manager.
- 44.3. The advance payment shall be repaid by deducting proportionate amounts from payments otherwise due to the Contractor, following the schedule of completed percentages of the Works on a payment basis. No account shall be taken of the advance payment or its repayment in assessing valuations of work done, Variations, price adjustments, Compensation Events, Bonuses, or Liquidated Damages.

45. Payment certificates

- 45.1. The Contractor shall submit to the Project Manager monthly statements of the estimated value of the work executed less the cumulative amount certified previously.
- 45.2. The Project Manager shall check the Contractor's monthly statement and certify the amount to be paid to the Contractor
- 45.3. Payments shall be adjusted for deductions for advance payments and retention. The Employer shall pay the Contractor the amounts certified by the Project Manager within 28 calendar days of the date of each certificate. If the Employer makes a late payment, the Contractor shall be paid interest on the late payment in the next payment. Interest shall be calculated from the date by which the payment should have been made up to the date when the late payment is made at the rate of eight percent per annum.
- 45.4. If an amount certified is increased in a later certificate or as a result of an award by the Adjudicator or an Arbitrator, the Contractor shall be paid interest upon

the delayed payment at the rate of 8% per annum. Interest shall be calculated from the date upon which the increased amount would have been certified in the absence of dispute.

46.Compensation Events

46.1. The following shall be Compensation Events:

- (a) The Employer does not give access to a part of the Site by the Site Possession Date stated in the Contract Data.
- (b) The Employer modifies the Schedule of Other Contractors in a way that affects the work of the Contractor under the Contract.
- (c) The Project Manager orders a delay or does not issue Drawings, Specifications, or instructions required for execution of the Works on time.
- (d) The Project Manager instructs the Contractor to uncover or to carry out additional tests upon work, which is then found to have no Defects.
- (e) The Project Manager unreasonably does not approve a subcontract to be let.
- (f) Ground conditions are substantially more adverse than could reasonably have been assumed before issuance of the Letter of Acceptance from the information issued to bidders (including the Site Investigation Reports), from information available publicly and from a visual inspection of the Site.
- (g) The Project Manager gives an instruction for dealing with an unforeseen condition, caused by the Employer, or additional work required for safety or other reasons.
- (h) Other contractors, public authorities, utilities, or the Employer does not work within the dates and other constraints stated in the Contract, and they cause delay or extra cost to the Contractor.
- (i) The advance payment is delayed.
- (j) The effects on the Contractor of any of the Employer's Risks.
- (k) The Project Manager unreasonably delays issuing a Certificate of Completion.
- (l) If the Contractor incurs cost as a result of any of the Employer's Risk events, the Contractor shall be entitled to the amount of such cost.
- (m) Other Compensation Events described in the Contract or determined by the Project Manager shall apply.

46.2. If a Compensation Event would cause additional cost or would prevent the work being completed before the Intended Completion Date, the Contract Price shall be increased and/or the Intended Completion Date shall be extended. The Project Manager shall decide whether and by how much the Contract Price shall be increased and whether and by how much the Intended Completion Date shall be extended.

- 46.3. As soon as information demonstrating the effect of each Compensation Event upon the Contractor's forecast cost has been provided by the Contractor, it shall be assessed by the Project Manager, and the Contract Price shall be adjusted accordingly. If the Contractor's forecast is deemed unreasonable, the Project Manager shall adjust the Contract Price based on the Project Manager's own forecast. The Project Manager will assume that the Contractor will react competently and promptly to the event.
- 46.4. The Contractor shall not be entitled to compensation to the extent that the Employer's interests are adversely affected by the Contractor's having not given early warning when it could have done so or not having cooperated with a reasonable instruction from the Project Manager.

47.Retention

- 47.1. The Employer shall retain ten percent from each payment due to the Contractor until Completion of the whole of the Works.
- 47.2. On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Defects Liability Period has expired and the Project Manager has certified that all Defects notified by the Project Manager to the Contractor have been corrected.
- 47.3. On completion of the whole Works, the Contractor may substitute retention money with an "on demand" Bank guarantee valid for one calendar month beyond the expiry of the Defects Liability Period.

48.Final payment

- 48.1. Within 14 calendar days after either the expiry of the Defects Notification Period, or the remedying of notified defects or the completion of outstanding work whichever is the later the Contractor shall submit a final account to the Employer together with any documentation reasonably required to enable the Employer to ascertain the final contract value.
- 48.2. The Project Manager shall issue a Defects Liability Certificate and certify any final payment that is due to the Contractor within 28 calendar days of receiving the Contractor's account if it is correct and complete. If it is not, the Project Manager shall issue within 28 calendar days a schedule that states the scope of the corrections or additions that are necessary. If the Final Account is still unsatisfactory after it has been resubmitted, the Project Manager shall decide on the amount payable to the Contractor and issue a payment certificate.

H. TERMINATION

49.Frustration

- 49.1. If the Contract is frustrated by the outbreak of war or by any other event of force majeure and the event continues for a period of 84 calendar days, on the first working day after the 84th the Project Manager shall issue a notice that the Contract has been frustrated. The Contractor shall make the Site safe and stop work as quickly as possible after receiving this notice and shall be paid for all work carried out before receiving it and for any work carried out afterwards to which a commitment was made.

50. Default by the Contractor

- 50.1. If the Contractor abandons the Works, refuses or fails to comply with a valid instruction of the Project Manager or fails to proceed expeditiously and without delay or is, despite a written complaint, in breach of the Contract, the Employer may give notice referring to this Sub-Clause and stating the default.
- 50.2. If the Contractor has not taken all practicable steps to remedy the default within 14 calendar days after the Contractor's receipt of the Employer's notice, the Employer may, by a second notice given within a further 21 calendar days, terminate the Contract. The Contractor shall then demobilize from the Site leaving behind Materials and Plant and any Contractor's Equipment, which, as the Employer instructs in the second notice, is to be used until the completion of the Works.
- 50.3. All Materials on the Site, Plant, Equipment, purchased as part of the contract including equipment for operation and maintenance (excluding contractors own equipment), Temporary Works, and Works shall be deemed to be the property of the Employer if the Contract is terminated because of the Contractor's default

51. Default by the Employer

- 51.1. If the Employer fails to pay in accordance with the Contract, or is, despite a written complaint, in breach of the Contract, the Contractor may give notice referring to this Sub-Clause and stating the default. If the default is not remedied within 7 calendar days after the Employer's receipt of this notice, the Contractor may suspend the execution of all or parts of the Works.
- 51.2. If the default is not remedied within 28 calendar days after the Project Manager's receipt of the Contractor's notice, the Contractor may, by a second notice given within a further 21 calendar days, terminate the Contract. The Contractor shall then demobilize from the Site.

52. Parties right to terminate

- 52.1. The Employer or the Contractor may terminate the Contract if the other party causes a fundamental breach of the Contract.
- 52.2. Fundamental breaches of Contract shall include, but shall not be limited to, the following:
 - (a) the Contractor stops work for 28 calendar days when no stoppage of work is shown on the current Program and the stoppage has not been authorized by the Project Manager;
 - (b) the Project Manager instructs the Contractor to delay the progress of the Works, and the instruction is not withdrawn within 28 calendar days;
 - (c) the Employer or the Contractor is made bankrupt or goes into liquidation other than for a reconstruction or amalgamation;
 - (d) a payment certified by the Project Manager is not paid by the Employer to the Contractor within 84 calendar days of the date of the Project Manager's certificate;

- (e) the Project Manager gives Notice that failure to correct a particular Defect is a fundamental breach of Contract and the Contractor fails to correct it within a reasonable period of time determined by the Project Manager;
 - (f) the Contractor does not maintain a Security, which is required; and
 - (g) the Contractor has delayed the completion of the Works by 100 calendar days being the maximum amount of liquidated damages.
 - (h) if the Contractor, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract as defined under GCC 54.1 below.
- 52.3. When either party to the Contract gives notice of a breach of Contract to the Project Manager for a cause other than those listed under GCC Clause 52.2 above, the Project Manager shall decide whether the breach is fundamental or not.
- 52.4. Notwithstanding the above, the Employer may terminate the Contract for convenience.
- 52.5. If the Contract is terminated, the Contractor shall stop work immediately, make the Site safe and secure, and leave the Site as soon as reasonably possible.
- 52.6. If a Party is declared insolvent under any applicable law, the other Party may by notice terminate the Contract immediately. The Contractor shall then demobilize from the Site leaving behind, in the case of the Contractor's insolvency; any Contractor's Equipment which the Project Manager instructs in the notice is to be used until the completion of the Works.

53. Payment on termination

- 53.1. If the Contract is terminated because of a fundamental breach of Contract by the Contractor, the Project Manager shall issue a certificate for the value of the work done and Materials ordered less advance payments received up to the date of the issue of the certificate and less the percentage to apply to the value of the work not completed, as indicated in GCC Clause 7.1. Additional Liquidated Damages shall not apply. If the total amount due to the Employer exceeds any payment due to the Contractor, the difference shall be a debt payable to the Employer.
- 53.2. If the Contract is terminated for the Employer's convenience or because of a fundamental breach of Contract by the Employer, the Project Manager shall issue a certificate for the value of the work done, Materials ordered, the reasonable cost of removal of Equipment, repatriation of the Contractor's personnel employed solely on the Works, and the Contractor's costs of protecting and securing the Works, and less advance payments received up to the date of the certificate.
- 53.3. After termination, the Contractor shall be entitled to payment of the unpaid balance of the value of the Works executed and of the Materials and Plant reasonably delivered to the Site, adjusted by the following:
- (a) any sums to which the Contractor is entitled under GCC 45.1 ;
 - (b) the Cost of his suspension and demobilization;
 - (c) any sums to which the Employer is entitled.

- (d) The net balance due shall be paid or repaid within 28 days of the notice of termination.

54. Fraud and Corruption

54.1. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

Section IV, Special Conditions of Contract

A. General	
GCC 1.2	<p><i>Insert the following Para. 1 if the procurement is funded by the World Bank or by the ADB</i></p> <p>1. "The Contractor, and all parties constituting the Contractor, shall have the nationality of an eligible country. The Contractor shall be deemed to have the nationality of a country if the Contractor is a citizen or is constituted, or incorporated, and operates in conformity with the provisions of the laws of that country. This criterion shall also apply to the determination of the nationality of proposed subcontractors or suppliers for any part of the Contract.</p> <p>The materials, equipment and services to be supplied under the Contract shall have their origin in eligible source countries, in accordance with the countries listed below and all expenditures under the Contract will be limited to such materials, equipment, and services. At the Employer's request, Contractors may be required to provide evidence of the origin of materials, equipment and services.</p> <p>For purposes of this Clause, "origin" means the place where the materials and equipment are mined, grown, produced or manufactured, and from which the related services are provided. Materials and equipment are produced when, through manufacturing, processing, or substantial or major assembling of components, a commercially recognized product results that differs substantially in its basic characteristics or in purpose or utility from its components."</p> <p><i>Depending on whether the procurement is funded by WB or by ADB, select and insert the applicable Para. 2 :</i></p> <p>[2. For WB, Eligible Countries are:</p> <p>The World Bank permits firms and individuals from all countries to offer goods, works and services for World Bank financed projects. As an exception, firms of a Country or goods manufactured in a Country may be excluded if:</p> <p>(a) as a matter of law or official regulation, the Borrower Country prohibits commercial relations with that Country, provided that the World Bank is satisfied that such exclusion does not preclude effective competition for the supply of the Goods or Works required, or</p> <p>(b) by an Act of Compliance with a Decision of the United Nations</p>

	<p>Security Council taken under Chapter VII of the Charter of the United Nations, the Borrower's Country prohibits any import of goods from that Country or any payments to persons or entities in that Country.]</p> <p>[2. For ADB, Eligible Countries are:</p> <p><i>[Insert here the most recent list of ADB member countries obtainable from the ADB Business Opportunities or the ADB's web page at www.adb.org.]</i></p> <p><i>Add the following paragraph 3 only when ADB or WB Special resources are being used that place specific limitations on eligibility of certain countries:</i></p> <p>3. In addition, the following countries are ineligible for this bidding:</p> <p><i>[Insert the list of ADB or WB developed member countries which have not contributed to such special resources and therefore are excluded from this bidding.]</i></p>
GCC 1.5	<i>Insert the Contract name and reference</i>
GCC 1.12	<i>Insert name and full registered address of the Contractor</i>
GCC 1.13	<i>Insert name and full registered address of the Employer</i>
GCC 1.15	<i>Insert either "The Asian Development Bank" or "The World Bank" or name of other DP as appropriate</i>
GCC 1.16	<i>Insert full name and address of the Project Manager</i>
GCC 1.17	<i>Insert full name and address of Contractor's Representative – to be completed at time of contract award</i>
GCC 1.18	The Start Date shall be <i>[insert date]</i> .
GCC 9	<p>The Intended Completion Date for the whole of the Works shall be <i>[insert date or period of time from the Start Date]</i></p> <p><i>[If different dates are specified for completion of the Works by section ("sectional completion" or milestones), these dates should be listed here]</i></p>
GCC 1.21 & GCC 39.1	The Defects Liability Period is <i>[insert period of time from the Completion Date]</i>
GCC 1.32	The Site is located at <i>[insert address of Site]</i> and is defined in drawings No. <i>[insert numbers]</i>
GCC 1.33	<i>List here all site investigation reports that are provided to the bidders or state "None"</i>
GCC 1.356	The Works consist of <i>[insert brief summary, including relationship to other contracts under the Project]</i> .
GCC 2.2	Sectional Completions are: <i>[insert nature and dates, if appropriate]</i>

GCC 2.3 (i)	The following documents also form part of the Contract: <i>[list documents]</i>
B The Contractor's Rights, Obligations And Responsibilities	
GCC 13.1	Key Personnel: <i>[insert Schedule of Key Personnel]</i>
GCC 15.1	Schedule of other contractors: <i>[insert Schedule of Other Contractors, if appropriate]</i>
GCC 17.1	<p>The minimum insurance amounts and deductibles shall be:</p> <p>(a) for the Works, Plant and Materials: <i>[insert amounts]</i>.</p> <p>(b) For loss or damage to Equipment: <i>[insert amounts]</i>.</p> <p>(c) for loss or damage to property (except the Works, Plant, Materials, and Equipment) in connection with Contract <i>[insert amounts]</i>.</p> <p>(d) for personal injury or death:</p> <p>i) of the Contractor's employees: <i>[insert amount]</i>.</p> <p>ii) of other people: <i>[insert amount]</i></p>
GCC 19.1	<p>The Performance Security amount is <i>[insert amount, being ten percent of the Contract Price]</i> in the form of an unconditional (on demand) Bank Guarantee in the form and wording shown Section IX, Security Forms.</p> <p>The currency shall be that of the Contract.</p>
D Contract Management	
GCC 27.1	The Contractor shall submit for approval a Program for the Works within <i>[number]</i> calendar days from the date of the Letter of Acceptance
GCC 27.3	<p>The period between Program updates is <i>[insert number]</i> calendar days.</p> <p>The amount to be withheld for late submission of an updated Program is <i>[insert amount]</i>.</p>
G Payments to the Contractor	
GCC 43.1	<p><i>If the contract is equal to or less than 18 months in duration, state "no adjustments will be made"</i></p> <p><i>If the Contract is of over 18 months duration state:</i></p> <p>The payment shall be adjusted by increasing the payment amount by one half of one percent for each entire month starting from the nineteenth month after the date of contract signature</p>

GCC 43.2	Proportion of the currencies for Payment: Payment shall be made in US Dollars. In US Dollars: 100%.
GCC 44.1	The Advance Payments shall be: <i>[insert percentage of the contract value]</i>

Section V, Specifications & Performance Requirements

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. In the context of national (local) competitive bidding, the Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done shall the objectives of economy, efficiency, and fairness in procurement be realized, responsiveness of bids be ensured, and the subsequent task of Bid evaluation facilitated. The Specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Samples of Specifications from previous similar projects in the same country are useful in to prepare Specifications. The use of metric units is encouraged. Most Specifications are normally written specially by the Employer or Project Manager to suit the Contract Works in hand. There is no standard set of Specifications for universal application in all sectors, but there are established principles and practices, which are reflected in these documents.

There are considerable advantages in standardizing General Specifications for repetitive Works in recognized public sectors, such as highways, ports, railways, urban housing, irrigation, and water supply where similar conditions prevail. The General Specifications should cover all classes of workmanship, materials, and equipment commonly involved in construction, although not necessarily to be used in a particular Works Contract. Deletions or addendums should then adapt the General Specifications to apply them to the particular Works.

Care must be taken in drafting Specifications to ensure that they are not restrictive. In the Specifications of standards for goods, materials, and workmanship, recognized international standards should be used as much as possible. Where other particular standards are used, whether national standards of Cambodia or other standards, the Specifications should state that goods, materials, and workmanship that meet other authoritative standards, and which ensure substantially equal or higher quality than the standards mentioned, shall also be acceptable. To that effect, the following sample clause may be inserted in the Special Conditions or Specifications.

Equivalency of Standards and Codes

Wherever reference is made in the Contract to specific standards and codes to be met by the goods and materials to be furnished, and work performed or tested, the provisions of the latest current edition or revision of the relevant standards and codes in effect shall apply, unless otherwise expressly stated in the Contract. Where such standards and codes are national, or relate to a particular country or region, other authoritative standards that ensure a substantially equal or higher quality than the standards and codes specified shall be accepted subject to the Project Manager's prior review and written consent. Differences between the standards specified and the proposed alternative standards shall be fully described in writing by the Contractor and submitted to the Project Manager at least 28 calendar days prior to the date when the Contractor desires the Project Manager's consent. In the event the Project Manager determines that such proposed deviations do not ensure

substantially equal or higher quality, the Contractor shall comply with the standards specified in the documents.”

These Notes for Preparing Specifications are intended only as information for the Employer or the person drafting the bidding documents. They should not be included in the final documents.

Section VI, Drawings

Insert here a List of Drawings.

The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Section VII, Bill of Quantities²¹

Objectives

The objectives of the Bill of Quantities are:

- (1) to provide sufficient information on the quantities of Works to be performed to enable bids to be prepared efficiently and accurately; and
- (2) when a Contract has been entered into, to provide a priced Bill of Quantities for use in the periodic valuation of Works executed.

In order to attain these objectives, Works should be itemized in the Bill of Quantities in sufficient detail to distinguish between the different classes of Works, or between Works of the same nature carried out in different locations or in other circumstances which may give rise to different considerations of cost. Consistent with these requirements, the layout and contents of the Bill of Quantities should be as simple and brief as possible, but the Employer must specify at a minimum the item reference number, brief description of each item, quantity and unit. Unit rates and amounts should be entered by the bidder.

Day-work Schedule

A Day-work Schedule should be included only if the probability of unforeseen work, outside the items included in the Bill of Quantities, is high. To facilitate checking by the Employer of the realism of rates quoted by the bidders, the Day-work Schedule should normally comprise the following:

- (1) A list of the various classes of labour, materials, and Constructional Plant for which basic day-work rates or prices are to be inserted by the Bidder, together with a statement of the conditions under which the Contractor shall be paid for work executed on a day-work basis.
- (2) Nominal quantities for each item of day-work, to be priced by each Bidder at day-work rates as Bid. The rate to be entered by the Bidder against each basic day-work item should include the Contractor's profit, overheads, supervision, and other charges.

Provisional Sums

A general provision for physical contingencies (quantity overruns) may be made by including a provisional sum in the Summary Bill of Quantities. Similarly, a contingency allowance for possible price increases should be provided as a provisional sum in the Summary priced Bill of Quantities. The inclusion of such provisional sums often facilitates budgetary approval by avoiding the need to request periodic supplementary approvals as the future need arises. Where such provisional sums or contingency allowances are used, the Special Conditions of Contract should state the manner in which they shall be used, and under whose authority (usually the Project Manager's).

²¹

In lump sum contracts, the "Bill of Quantities" is prepared for information; it is not contractual. The contractual document prepared by the Bidder shall be an "Activity Schedule."

The estimated cost of specialized work to be carried out, or of special goods to be supplied, by other contractors should be indicated in the relevant part of the Bill of Quantities as a particular provisional sum with an appropriate brief description. A separate procurement procedure is normally carried out by the Employer to select such specialized contractors.

To provide an element of competition among the bidders in respect of any facilities, amenities, attendance, etc., to be provided by the successful Bidder as prime Contractor for the use and convenience of the specialist contractors, each related provisional sum should be followed by an item in the Bill of Quantities inviting the Bidder to quote a sum for such amenities, facilities, attendance, etc.

These Notes for Preparing a Bill of Quantities are intended only as information for the Employer or the person drafting the Bidding Documents. They should not be included in the final documents.

Section VIII, Forms of Bid, Qualification Information, Letter of Acceptance, and Agreement

1. Contractor's Bid

The **Bidder** shall fill in and submit this Bid form with the Bid.

[Date]

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

To: *[name and address of Employer]*

Having examined the Bidding Documents, including addenda *[insert list]*, we offer to execute the *[name and identification number of Contract]* in accordance with the GCC accompanying this Bid for the Contract Price of United States Dollars *[insert amount in numbers]*, *[insert amount in words]* excluding any discounts offered below.

The discounts offered and the methodology for their application is:

The advance payment required is United States Dollars *[insert amount in figures and words and currency]*

We accept the appointment of *[insert name proposed in Bid Data Sheet]* as the Adjudicator or

We do not accept the appointment of *[insert the name proposed in BDS]* as the Adjudicator, and propose..... *[Delete one of these two options]*

This Bid and your written acceptance of it shall constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid complies with the Bid validity and, if required, Bid Security or Bid-Securing Declaration as required by the Bidding Documents and specified in the BDS.

We, including any subcontractors or suppliers for any part of the Contract, have nationalities from eligible countries in accordance with ITB Sub Clause 4.1

We have no conflict of interest in accordance with ITB Sub Clauses 4.3 and 4.4;

Our firm, its affiliates or subsidiaries—including any subcontractors or suppliers for any part of the contract—has not been declared ineligible by [*insert name of Development Partner*]or by the Royal Government of Cambodia, in accordance with ITB Clause 3.1 (d).

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

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

(if none, state “none”)

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Bidder and affix Seal:

Address: _____

The **Bidder** shall fill in and submit this Bid Form with the Bid.

2. Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

- (1) Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
- (2) Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
- (3) That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
- (4) We understand our obligation to allow the Royal Government of Cambodia or the [name of Development Partner] to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
- (5) That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the employer.
- (6) We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the Development Partner and /or other sources for a period to be determined by them.

Signed

Name of Bidder and affix Seal

Date:

3. Qualification Information

[The information to be filled in by bidders in the following pages shall be used for purposes of post qualification. This information shall not be incorporated in the Contract. Attach additional pages as necessary.]

1. Individual Bidders or Individual Members of Joint Ventures

1.1 Constitution or legal status of Bidder: *[attach copy]*

Place of registration: *[insert]*

Principal place of business: *[insert]*

Power of attorney of signatory of Bid: *[attach]*

1.2 Annual amounts of construction works performed in each of the last 3 years and their average over the last 3 years *[insert amounts such as records of payments received, approved invoices, tax certificates, etc, for each of the last 3 years. (refer to ITB Clause 6.1 (d))]*

Year 1 (200_) Total Amount:

Year 2 (200_) Total Amount:

Year 3 (200_) Total Amount:

Average:

1.3 Number of works of a nature and amount similar to the Works performed as prime Contractor over the last 5 years. *[Refer to ITB Clause 6.1 (e) The amounts should be indicated in KH Riel or USD. Also list details of work under way or committed, including expected completion date(s).]*

Project name and country	Name of client and contact person	Type of work performed and year of completion	Value of contract (KH Riel or USD)
(a)			
(b)			

- 1.4 Major items of Contractor's Equipment proposed for carrying out the Works. *[List all information requested below. Refer also to ITB Clause 6.1 (f).]*

Item of equipment	Description, make, and age (years)	Condition (new, good, poor) and number available	Owned, leased (from whom?), or to be purchased (from whom?)
(a)			
(b)			

- 1.5 Qualifications and experience of key personnel proposed for administration and execution of the Contract. *[Attach biographical data. Refer also to ITB Clause 6.1 (g) and GCC Clause 13.1]*

Position	Name	Years of experience (general)	Years of experience in proposed position
(a)			
(b)			

- 1.6 Proposed subcontracts and firms involved. Refer to ITB Sub-Clause 6.1(1) and GCC Clause 14.1

Sections of the Works	Value of subcontract	Subcontractor (name and address)	Experience in similar work
(a)			
(b)			

- 1.7 Access to financial resources to meet the qualification requirements, cash in bank account, lines of credit, other current assets and financial resources that could be allocated exclusively for the proposed contract. Refer to ITB Sub-Clause 6.1(i). List below and attach supporting evidence e.g. letter from the bidder's bank certifying the availability of the required amount in the bidder's bank account and confirming that such funds have been set

aside exclusively for the proposed contract, or letter from the bidder's bank certifying that a credit line for the required amount has been established for the bidder exclusively for the proposed contract. The bank letters should explicitly indicate the name of the proposed contract and the amount the amount that is at the disposal of the bidder for the contract

Cash in bank, set aside exclusively for the proposed contract. Attach evidence.	Amount of Credit Line from bank, exclusively for the proposed contract. Attach evidence.	Any other liquid assets, set aside exclusively for the proposed contract. Specify amount and attach evidence.	Total liquid assets available and set aside exclusively for the proposed contract

1.8 Certified/Audited Financial reports for the last 3 years: balance sheets, profit and loss statements, auditors' reports, etc. *[List below and attach copies of support documents].*

1.9 Name, address, and telephone, telex, and facsimile numbers of banks that may provide references if contacted by the Employer.

1.10 Information on current litigation(s) in which the Bidder is involved.

Other party(ies)	Cause of dispute	Amount involved
(a)		
(b)		

1.11 Proposed Program (work method and schedule). This will include descriptions, drawings, and charts, as necessary, to comply with the requirements of the Bidding Documents.

2. Joint Ventures

2.1 The information listed in 1.1 - 1.10 above shall be provided for each partner of the joint venture.

2.2 The information in 1.11 above shall be provided for the joint venture.

2.3 Attach the power of attorney of the signatory of the Bid authorizing signature of the Bid on behalf of the joint venture.

2.4 Attach the Agreement among all partners of the joint venture (and which is legally binding on all partners), which shows that:

(a) all partners shall be jointly and severally liable for the execution of the

Contract in accordance with the Contract terms;

- (b) one of the partners shall be nominated as being in charge, authorized to incur liabilities, and receive instructions for and on behalf of any and all partners of the joint venture; and
- (c) the execution of the entire Contract, including payment, shall be done exclusively with the partner in charge.

3. Additional Requirements

- 3.1 Bidders should provide any additional information required in the BDS.

4. Letter of Acceptance

[Letterhead of the Employer]

[The Letter of Acceptance shall be the basis for formation of the Contract as described in ITB 30.1. This Standard Form of Letter of Acceptance shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed, subject to any review by DP, if required.]

[Insert Date]

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

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

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 SCC]* for the Contract Price of United States Dollars *[insert amount in numbers and words]* as corrected and modified²² in accordance with the Instructions to Bidders is hereby accepted by our Agency.

[Choose one of the following (a) or (b) options]

- (a) We accept that *[insert name proposed by bidder]* be appointed as the Adjudicator.
- (b) We do not accept that *[insert name proposed by bidder]* be appointed as Adjudicator, and by sending copy of this letter of Acceptance to *[insert name of the Appointing Authority]*, we are hereby requesting *[insert name]*, the Appointing Authority, to appoint the Adjudicator in accordance with ITB Clause 33.1.

You are hereby instructed to (a) sign and return the attached Contract Documents, and (b) forward the performance security pursuant to ITB Clause 31.1, i.e., within 14 calendar days after receipt of this Letter of Acceptance, and pursuant to GCC Clause 19.1.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Agency: _____

Attachment: Agreement

5. Agreement

[The Agreement shall incorporate any corrections or modifications to the Bid resulting from corrections of errors (ITB Clause 25), acceptable deviations (ITB Clause 26), or any other mutually-agreeable changes allowed for in the Conditions of Contract, such as changes in key personnel, subcontractors, scheduling, and the like.]

This Agreement, made the *[insert day]* day of *[insert month]*, *[insert year]* between *[insert name and address of Employer]* (hereinafter called "the Employer") and *[insert name and address of Contractor]* (hereinafter called "the Contractor") of the other part.

Whereas the Employer is desirous that the Contractor execute *[insert name and identification number of Contract]* (hereinafter called "the Works") and the Employer has accepted the Bid by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

Now this Agreement witnessed as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereinafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written.

The Common Seal of *[Witness entity]* _____

was hereunto affixed in the presence of: _____

Signed, Sealed, and Delivered by the said _____

in the presence of: _____

Binding Signature of Employer *[signature of an authorized representative of the Employer]*

Binding Signature of Contractor *[signature of an authorized representative of the Contractor]*

Section IX, Security Forms

Samples of acceptable forms of Bid, Performance, and Advance Payment Securities are provided in this Section X. Bidders shall not complete the Performance and Advance Payment Security forms at this stage of the procurement process. Only the successful Bidder shall be required to provide these two securities.

1. Form of Bid Security (Bank Guarantee)

[If required, the Bank shall fill in this Bank Guarantee form on the Bank's letterhead in accordance with the instructions indicated in brackets]

[insert bank's name, and address of issuing branch or office]

Beneficiary: *[insert name and address of Employer]*

Date: *[insert date]*

BID GUARANTEE No.: *[insert number]*

We have been informed that *[insert name of the Bidder; if a joint venture, list complete legal names of partners²³]* (hereinafter called "the Bidder") has submitted to you its bid dated *[insert date]* (hereinafter called "the Bid") for the execution of *[insert name of Contract]* under Invitation for Bids No. *[insert number]* ("the IFB").

Furthermore, we understand that, according to your conditions, Bids must be supported by a Bid Guarantee.

At the request of the Bidder, we *[insert name of bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures expressed in the currency of the Purchaser's Country or the equivalent amount in an international freely convertible currency]* (*[insert 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 bidding conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Contractor's Bid ; or
- (b) does not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter "the ITB") of the Bidding Documents; or
- (c) having been notified of the acceptance of its Bid by the Employer during the period of bid validity, (i) fails or refuses to execute the Contract, if required, or (ii) fails or refuses to furnish the Performance Security, in accordance with the ITB.

This Guarantee shall expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the Contract signed by the Bidder and of the Performance Security issued to you by the Bidder; or (b) if the Bidder is not the successful bidder on *[insert date 30 calendar days after the expiry of the Bid validity]*.

²³ 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 VIII "Qualification Information, paragraph 2.

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

This Guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

[Signature of authorized representative]

2. Bid-Securing Declaration

[If required, the Bidder shall fill in this form in accordance with the instructions indicated in brackets.]

Date: *[insert date]*

Name of contract: *[insert name]*

Contract Identification No: *[insert number]*

Invitation for Bid No.: *[insert number]*

To: _____

We, the undersigned, declare that:

1. We understand that, according to your conditions, bids must be supported by a bid-securing declaration.
2. We accept that we shall be suspended from being eligible for bidding in any contract with the Employer for the period of time of 3 years maximum starting from the date of the expiry of our bid, or pay to the Employer two percent (2%) of our total bid amount, if we are in breach of our obligation(s) under the bidding conditions, because we:
 - (a) have withdrawn our Bid during the period of bid validity specified by us in the Bid Submission Sheet; or
 - (b) do not accept the correction of errors in accordance with the Instructions to Bidders (hereinafter “the ITB”) of the Bidding Documents; or
 - (c) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, (i) fail or refuse to execute the Contract, if required, or (ii) fail or refuse to furnish the performance security, in accordance with the ITB.
3. We understand this Bid Securing Declaration shall expire if we are not the successful bidder on *[insert date]* the date 30 calendar days after the expiry of the validity our bid..
4. We understand that if we are a JV, the Bid Securing Declaration 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 Securing Declaration shall be in the names of all future partners as named in the letter of intent.

Signed *[insert signature(s) of authorized representative]* In the Capacity of *[insert title]*

Name *[insert printed or typed name]*

Duly authorized to sign the bid for and on behalf of *[insert authorizing entity and affix Seal]*

Dated on *[insert day]* day of *[insert month]*, *[insert year]*

3. Performance Security (Bank Guarantee)

(Unconditional)

*[The **bank** issuing the Guarantee shall fill in this form on the bank's letterhead in accordance with the instructions indicated in brackets.]*

[Name of the Bank and address of issuing branch or office]

Beneficiary: *[insert name and address of Employer]*

Date: *[insert date]*

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

We have been informed that *[insert name of Contractor]* (hereinafter called "the Contractor") has entered into Contract No. *[Reference number of the Contract]* dated with you, for the execution of *[insert name of Contract and brief description of Works]* (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 Contractor, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words]*),²⁴ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall remain valid and in full effect until thirty calendar days after the date of issuance of the Certificate of Completion, calculated based on a copy of such Certificate which shall be provided to us, or on the *[insert number]* day of *[insert month]*, *[insert year]*,²⁵ whichever occurs first. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

²⁴ *The Guarantor (bank) shall insert an amount representing the percentage of the Contract Price specified in the Contract and denominated either in the currency(ies) of the Contract or a freely convertible currency acceptable to the Employer.*

²⁵ *Insert the date twenty-eight days after the expected Completion date. The Employer should note that in the event of an extension of the time for completion of the Contract, the Employer would need to request an extension of this Guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the Guarantee. In preparing this Guarantee, the Employer might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this Guarantee for a period not to exceed [six months][one year], in response to the Employer's written request for such extension, such request to be presented to the Guarantor before the expiry of the Guarantee."*

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

[name, title and signature(s) of an authorized representative(s) of the Bank]

4. Advance Payment Security (Bank Guarantee)

The **bank** providing the Guarantee shall fill in this form on the Bank's letterhead in accordance with the instructions indicated in brackets, if an Advance Payment is to be provided under the Contract

[insert name of the Bank and address of issuing branch or office]

Beneficiary: [insert name and address of Employer]

Date: [insert date]

ADVANCE PAYMENT GUARANTEE No.: [insert number]

We have been informed that [insert name of Contractor] (hereinafter called "the Contractor") has entered into Contract No. [Reference number of the contract] dated [insert date] with you, for the execution of [insert name of contract and brief description of Works] (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment is to be made against an advance payment guarantee in the sum or sums indicated below.

At the request of the Contractor, we [insert name of Bank] hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of [insert amount in figures] ([insert amount in words]²⁶ upon receipt by us of your first demand in writing accompanied by a written statement stating that the Contractor is in breach of its obligation under the Contract because the Contractor used the Advance Payment for purposes other than the costs of mobilization in respect of the Works.

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 Contractor on its account number [insert account number] at [insert name and address of Bank].

The maximum amount of this guarantee shall be progressively reduced by the amount of the Advance Payment repaid by the Contractor as indicated in copies of interim statements or payment certificates which shall be presented to us. This guarantee shall remain valid and in full effect from the date of the advance payment under the Contract until you receive full repayment of the same amount from the Contractor or on the [insert number] day of [insert month], [insert year²⁷], whichever is

²⁶ The Guarantor shall insert an amount representing the amount of the Advance Payment and denominated either in the currency(ies) of the Advance Payment as specified in the Contract, or in a freely convertible currency acceptable to the Employer.

²⁷ Insert the expected expiration date of the Time For Completion. The Employer should note that in the event of an extension of the Time For Completion of the Contract, the Employer would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Employer 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 Employer's written request for such extension, such request to be presented to us before the expiry of the guarantee."

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

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 758.

[Insert name, title and signature(s) of authorized representative(s) of bank]

Annex IV d

Standard National Shopping

Document

Procurement of Works



Preface

The use of this standard document is recommended for procurement of all works with an estimated value of less than the threshold for National Competitive Bidding stated in Annex III of this Procurement Manual except where the RGC, represented by MEF, and respective DP have agreed to revise any part of the document

The processes set out in this standard document are the Royal Government of Cambodia's (RGC) and have been agreed with both the ADB and WB for use in projects financed by them. Therefore when this document is used, no conflict exists between the RGC and the two DP's procurement processes. This standard document can also be used for other DP financed projects, if the DP agrees to this.

The need for advertisement of the Invitation for Bids will depend on the threshold values (Shopping with Advertising) stated in Annex III of this Procurement Manual. For all works procurement above the specified threshold, the Invitation for Bids must be advertised in the Khmer language in a provincial or national newspaper of wide circulation that has been continuously published for a period of not less than two years. It is also advisable to advertise in an English Language national newspaper. Any interested party may obtain the bidding documents and submit a bid, including foreign contractors, free of charge.

For works procurement under the specified threshold (Shopping without Advertising), there is no need for advertisement and the document may be sent directly and free of charge to , as many as reasonably possible, reputable and qualified contractors so as to ensure that **at least three bids** are received in response.

Bidders will be required to submit sealed quotations which will be opened in public but they will not be required to provide a bid security, only a bid and performance securing declaration as described in the Instruction to Bidders section of the standard documents. A bidder's attendance at the opening of bids is not mandatory.

The time period between the appearance of the advertisement and the opening of sealed quotations will be at least 14 calendar days and no more than calendar 30 calendar days.

TABLE OF CONTENTS

INVITATION TO BID	4
SECTION 1 INSTRUCTION TO BIDDERS	6
SECTION 2 CONDITIONS OF CONTRACT FOR CIVIL WORKS	12
SECTION 3 BILL OF QUANTITIES	20
SECTION 4 TECHNICAL SPECIFICATIONS AND DRAWINGS.....	22
SECTION 5.1 STATEMENT ON ETHICAL CONDUCT AND FRAUD AND CORRUPTION	23
SECTION 5.2 FORM OF BID	24
SECTION 6 ACTIVITY SCHEDULE	25
SECTION 7 FORM OF CONTRACT AGREEMENT	27
SECTION 8 BID AND PERFORMANCE SECURING DECLARATION	30

INVITATION TO BID

**The [Insert Name of the Employer]
Wishes to engage a contractor to execute the following Works:
[Insert brief description of the works]**

1. The Royal Government of Cambodia (RGC) has received a [insert "Loan/Credit" or "Grant"] from the [insert name of Development Partner] toward the cost of [insert name of Project], and it intends to apply part of the proceeds of this [insert "Loan/Credit" or "Grant"] to payments under the Contract for [insert name/no. of Contract].

If the government is using its own funds delete the above paragraph renumbering the subsequent ones

2. Construction is scheduled to begin on [insert expected start date] and completed by end of [insert expected completion date].
3. Interested qualified eligible contractors are invited to obtain a copy of the bidding documents free of charge from the address given below.
4. To be considered eligible a contractor must
 - (a) Be from a ADB member country [delete this requirement when the funding is not ADB]
 - (b) Not be under any notice of disbarment issued by the RGC or [name of Development Partner]
5. To be considered qualified a contractor must:
 - (a) Have completed in the last 3 years at least two contracts of a similar nature of at least 75% of the value of the bid.
 - (b) Have cumulative construction turnover in the last two years equal to at least 1.5 times the value of the bid price.
 - (c) The proposed works manager must have at least 3 years of experience in the supervision of works of an equivalent nature and size and no less than one year as a manager.

Documentary evidence to demonstrate the bidder's qualifications must be submitted with the bid.

6. Bids must be delivered to the address given below at or before [insert time and date]. Late bids will be rejected. Bids will be opened in public immediately thereafter at the same address in the presence of the Bidders' representatives and the project's beneficiaries from the concerned local community who choose to attend shall be allowed to be present in person.
7. The Employer shall award the Contract to the Bidder whose offer has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.
8. All bids must be accompanied by a bid and performance securing declaration as described in the bidding documents. Any bid not accompanied by one will be rejected as non-responsive.
9. The address where the document may be inspected and obtained is: [Insert name of Executing Agency, Office designation (room number), name of concerned officer in Executing Agency, Street address, City, and telephone and fax numbers]
10. In case of any difficulty in obtaining the bidding documents, interested parties may contact in writing [insert name, position, complete address, telephone and fax numbers of government officer who should be in higher position in the Executing Agency than the official

specified above] and also send a copy of the communication to the Director, Department of Investment and Cooperation Ministry of Economy and Finance New Building 2nd Floor, Street 92, Sangkat Wat Phnom' Khan Daun Penh, Cambodia The address for bid submission and bid opening is: *[Insert name of Executing Agency, Office designation (room number), name of officer, street address, City]*

11. The RGC and the [name of Development Partner] will respectively declare a firm ineligible either indefinitely or for a stated period of time, to be awarded a contract funded by the RGC and the [name of Development Partner], if it at any time determines that the firm has engaged in corrupt or fraudulent, coercive or collusive practices in competing for or in executing a contract.
12. Any party may make a complaint at any stage of the procurement process. The procedure is described in Clause 21 of the Instructions to Bid.

SECTION 1 INSTRUCTION TO BIDDERS

1. Description of Works:

The _____ [*Name of the Employer*], as the Employer, invites bids for the construction of _____ as described in the Conditions of Contract (CC). The successful bidder will be expected to construct the works within the time allowed under the Conditions of Contract.

2. Eligibility of the Bidder:

Only bidders who meet the following criteria will be eligible for an award of contract:

- a) Those from a ADB member country [delete this requirement when the funding is not ADB]
- b) Not be under any notice of disbarment issued by the RGC of the [name of Development Partner].

3. Qualification of the Bidder

- a) Have completed in the last three years at least two contracts of a similar nature of at least 75% of the value of the bid.
- b) Have cumulative construction turnover in the last two years equal to at least 1.5 times the value of the bid price.
- c) The proposed works manager must at least 3 years of experience in the supervision of works of an equivalent nature and size and no less than one year as a manager.

Documentary evidence to demonstrate the bidder's qualifications must be submitted with the bid.

4. Fraud and Corruption:

The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:

- a) defines, for the purposes of this provision, the terms set forth below as follows:
 - i) "Corrupt Practices" mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - ii) "Fraudulent Practices" is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;

- iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
 - c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
 - d) will sanction a firm or individual, at any time, in accordance with the prevailing DP’s sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP’s financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
 - e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Section 5.1 Form of Quotation and submit it with their

bid. If the Statement is not signed and submitted with the Bid by the Bidder, its Bid will be rejected.

5. Contents of Bid Documents:

The set of Bid documents comprises the documents listed below:

- Invitation to Bid
- SECTION 1. INSTRUCTIONS TO BIDDERS
- SECTION 2. CONDITIONS OF CONTRACT
- SECTION 3. BILL OF QUANTITIES
- SECTION 4. TECHNICAL SPECIFICATIONS AND DRAWINGS
- SECTION 5. FORM OF BID
- SECTION 6. ACTIVITY SCHEDULE
- SECTION 7. FORM OF CONTRACT AGREEMENT
- SECTION 8. BID AND PERFORMANCE SECURING DECLARATION

6. Prices and Currency of Bid:

- a) Rates and prices shall be quoted in US Dollars for all Activities of Works described in the Activity Schedule. Activities for which no rate or price is entered by the Bidder will not be paid for by the Employer when executed and shall be deemed covered by the other rates and prices in the Activities Schedule.
- b) All duties, taxes, and other levies paid or payable by the Contractor under the Contract, or for any other cause shall be included in the rates, prices, and total bid price submitted by the Bidder.
- c) Prices shall remain fixed and not subject to price adjustment during the period of performance of the contract.

7. Documents Comprising the Bid: The Bid submitted by the Contractor shall comprise the following documents:

- (a) Form of Bid
- (b) Priced Activity Schedule
- (c) Priced Bill of Quantities
- (d) Bid and Performance Securing Declaration

8. Bid and Evaluation Criteria:

The bid and the Contract shall be for the whole Works, including materials, equipment, labor, transport and profit. The Employer shall award the contract to the Bidder whose bid has been determined to be the lowest evaluated bid and is substantially responsive to the Bidding Documents, provided further that the bidder is determined to be qualified to perform the contract satisfactorily

9. Validity of Bid:

The bid shall remain valid for the period of sixty (60) calendar days counted from the deadline for submission of bids specified in Clause 12 of these Instructions. The Employer may request the Bidders to extend the period of validity for a specified additional period. The Employer's request and the Bidders' responses shall be made in writing or by fax or by email. A Bidder may refuse the request for extension of bid

validity in which case he may withdraw his Bid without any penalty. A Bidder agreeing to the request will not be required or permitted to otherwise modify its Bid.

10. Language of the Bid:

All documents relating to the Bid and contract shall be in [Khmer or English] language.

11. Preparation and Sealing of Bid:

The Bidder shall prepare one original of the documents comprising the Bid as described in Clause 5 of these Instructions, with the Form of Bid, and clearly marked "Original". In addition, the Bidder shall also submit one copy which shall be clearly marked as "COPY". In the event of discrepancy between them the original shall prevail. The original and the copy of the Bid shall be signed by a person or persons duly authorized to sign on behalf of the Bidder. All the pages of the Bid where entries or amendments or corrections have been made shall be initialed by the person or persons signing the Bid. The Bidder shall seal the original and the copy of the Bid in two inner envelopes and one outer envelope, duly marking the inner envelopes as "ORIGINAL" and "COPY". The inner and the outer envelopes shall be addressed to the Employer at the address provided in the Invitation to Bid shall provide a warning not to open before the specified time and date for Bid opening as defined Clause 15 of these Instructions. The inner envelopes shall indicate the name and full address of the Bidder. If the outer envelope is not sealed and marked as above, the Employer will assume no responsibility for the misplacement or premature opening of the Bid.

12. Place and Deadline for Submission of Bids:

The Bids shall be delivered to the Employer NO LATER than.....
[Time, Date] at the address.....[Full address, including building and room No., street, city]. Any Bid received by the Employer after the deadline prescribed in this clause will be rejected and returned unopened to the Bidder.

13. Bid and Performance Securing Declaration:

The Bid and Performance Securing Declaration should be in accordance with the form included in [BID AND PERFORMANCE SECURING DECLARATION](#) and shall be valid up to the end of the guarantee period specified in Clause 18 of Conditions of Contract (CC). Any Bid not accompanied by a Bid and Performance Securing Declaration when required will be rejected by the Employer as non-responsive. The execution of a bid and performance securing declaration will result in the Bidder being held ineligible for all contracts let by the RGC irrespective of the funding source for a period of two years from the expiry of the Bid Validity unless, at a Bidder's option, the Bidder chooses to pay an administrative penalty of two percent of the total amount bid to the Employer. The Bid Securing and Performance Declaration will be executed:

- (a) if a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Form of Bid or
- (b) if the Bidder does not accept the correction of its Bid Price pursuant to Clause 17 of these Instructions.
- (c) if the successful Bidder fails within the specified time to sign the Contract:

- (d) if the successful bidder, once contracted commits a fundamental breach of contract leading to the Employer's termination of the contract for reasons of the successful bidder's default.

14. Modification and Withdrawal of Bids:

No Bids shall be modified after the deadline for submission of Bids specified above in Clause 12 of these Instructions. Withdrawal of a Bid between the deadline for submission of Bids and the expiration of the validity of the Bids as specified in Clause 9 of these Instructions above will result in the execution of the Bid Securing and Performance Declaration.

15. Opening of Bids: The Employer will open the Bids in the presence of the bidders' representatives and representatives of the project's beneficiaries from the local community who choose to attend, immediately after the deadline for submission of bids and at the same address specified in Clause 12 of these Instructions. The bidders' names, the total amount of each Bid, unconditional discounts if any, and the present/absence of bid securing and performance declarations will be announced by the Employer at the Bid opening. The written record of public opening shall be signed in original by all those present. Immediately upon conclusion of the bid opening proceedings, copies of the minutes shall be provided to the bidders and community representatives present at the bid opening. In addition, a copy of the minutes shall promptly be posted at a prominent and freely accessible location outside the office of the Employer, and also sent to all those who purchased the bidding documents but were not present at the bid opening.

16. Process to be Confidential: Any information relating to the examination, clarification, evaluation and comparison of bids for the contract award shall not be disclosed until the award to the successful Bidder has been announced.

17. Evaluation and Comparison of Bids:

The Employer will award the Contract to the Bidder whose Bid has been determined to be substantially responsive to the Bid documents and who has offered the lowest evaluated Bid. In evaluating the Bids, the Employer will determine for each Bid the evaluated Bid by adjusting the Bid by making any correction for any arithmetic errors as follows:

- (a) where there is a discrepancy between amounts in figures and in words, the amount in words will govern;
- (b) where is a discrepancy between the unit rate and the line item total resulting from multiplying the unit rate by the quantity, the unit rate as quoted will govern;

If a Bidder refuses to accept the correction, his Bid will be rejected and Bid Securing and Performance Securing Declaration executed.

18. Employer's Right to Accept Any Bids and to Reject any or all Bids:

The Bidder reserves the right to accept or reject any bid, and to cancel the process of competition and reject all bids, at any time prior to the award of the Contract, without thereby incurring any liability to the affected Bidder(s).

19. Notification of Award and Signing of Contract:

The Contractor whose Bid has been accepted will be notified of the award by the Employer prior to the expiration of the validity period of the Bid, by registered letter. The written notification of award will constitute the formation of the Contract. In the event that no notification of award is issued the signature of the Contract by the Employer and Bidder shall constitute the formation of Contract.

20. Debriefing:

After the award of contract has been announced, an unsuccessful bidder has the right to request, in writing a debriefing to ascertain why its bid was unsuccessful and the Employer has the obligation to provide it. No commercial confidences will be breached and no detailed information concerning other bids will be disclosed other than the information already read out at bid opening and the reasons for any and all bids rejection.

21. Complaints

A complaint may be made by any party at any stage of the procurement process. No complaint will be responded to during the evaluation period. Complaints received during the evaluation period will be reviewed by the Purchaser and a response issued only after the evaluation is completed. Complaints shall be addressed to the designated representative of the Employer.....(insert name, address, tel. and fax Nos. of the representative of the Employer designated to receive complaints). The designated representative of the Employer will investigate the grounds for the complaint and, with the exception of those complaints received during the evaluation period as described above, respond to in writing within 14 calendar days of receiving the complaint. In the event that the response from the designated representative of the Employer does not satisfy the bidder or there is no response to the complaint it should be referred to the Director, Department of Public Procurement, Ministry of Economy and Finance, 92, Sangkat Wat Phnom, Khan Daun Penh, Phnom Penh, Kingdom of Cambodia. In such case, a copy of the complaint should also be sent to the designated official of the Director, Department of Investment and Cooperation, Ministry of Economy and Finance and to the representative of [Name, address, and fax No. of the designated Task Team Leader for the Project from the Development Partner]. The Department of Public Procurement shall respond to the complaint within 14 calendar days. This is without prejudice to any other recourse that a bidder may choose under the laws of Cambodia.

22. Publication of Award. The Employer shall

- (1) notify in writing all participating bidders of the results of the bid evaluation after the contract has been awarded, and
- (2) publish in a national newspaper, at the end of each quarter, a notice informing the general public of the availability of contract awards summary and contract registers in the office of the Employer

SECTION 2 CONDITIONS OF CONTRACT FOR CIVIL WORKS

Article 1. General Provisions

1. The Employer has appointed..... [Name] to be the Project Manager of the Contract who will supervise implementation of the Contract.
2. The Contractor confirms that he has examined, read and understood fully all the Contract Documents, being
 - (a) The Form of Bid submitted by the Contractor,
 - (b) the Priced Activity Schedule ,
 - (c) the Form of Contract,
 - (d) the Conditions of Contract,
 - (e) the Contractor's Priced Bill of Quantities (to be used only in the determination of price of additional Works, if any, approved by the Project Manager),
 - (f) the Drawings and
 - (g) the Technical Specificationswhich all together form the Contract
3. The Employer has approved the Activity Schedule and the detailed Work Plan submitted by the Contractor, including the Works Start Date, the Works Completion Date, and the person representing the Contractor, who will act as Works Manager.
4. The Start Date is_____ [insert Date] and the Intended Completion Date is____ [insert Date].
5. The language of the Contract is English, and the law is that governing contracts in force in the Kingdom of Cambodia.
6. The Contract shall be amended only by written agreement between the Employer and the Contractor.
7. Every effort shall be made to resolve disputes amicably and without recourse or referral to third parties. Any dispute that cannot be resolved amicably shall be referred by either Party to the Cambodian Chamber of Commerce [Arbitration Council of Cambodia-discuss] for adjudication in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

Article 2. Employer's and Contractor's obligations

8. The Employer and the Contractor now agree as follows:
 - 8.1 The Employer pledges to pay the Contractor the Contract Price of [Insert amount in figures and words and currency]. This amount is all inclusive price for the full quantity of work shown on the Drawings, including materials, transport to the site, labor, profit, and all taxes and duties.
 - 8.2 The Contractor pledges to construct the following works:
.....
..... [insert description]

of works]. On or before the Works Start Date, the Project Manager or a Technical Supervisor, acting as a representative of the Project Manager, will indicate the exact location where the works are to be constructed.

Article 3. Conditions for Execution of the Works

9. The Contractor shall not sub-contract more than % [insert the percentage, which should normally not be more than 30%] of the whole of the works. The Contractor shall not, without the written consent of the Employer, sub-contract any part of the Works. In the event the Employer approves the sub-contracting; such consent shall not relieve the Contractor of his obligations under the Contract.
10. The Contractor shall start the Contract and implementation of the Works on [Start date, or state "the date falling two weeks after contract signing"] and shall complete the whole of the works not later than [Completion date, or the period in months with reference to the Start Date]). If implementation of the Contract is delayed due to any circumstances or event, which could not have been foreseen by an experienced contractor, the Contractor must inform the Project Manager immediately about the delay. If the Project Manager considers that an extension of time for the Contract is justified, the Contractor must submit an amended Activity Schedule and Work Plan, agreed with the Project Manager, for approval by the Employer.
11. If, 15 days after the Works Start Date, the Contractor has not started to implement the project, the Employer has the right to cancel the contract. If, at any time, implementation of any part of the Works is delayed by more than 100 calendar days beyond the dates shown in the Work Plan, the Employer has the right to cancel the contract. In either circumstances should the delays be attributable to a breach on the part of the Contractor the Employer will execute the Bid and Performance Securing Declaration and the Contractor will be disbarred from providing any goods, works or services on any publicly funded contract for a period of not less than three years.
12. The Employer has the right to reduce the payment to the Contractor by 0.1% of the total price of the project for every day of delay after the Works Completion Date or as extended by the Project Manager in accordance with Paragraph 8 of these Conditions of Contract, until the work is complete. The reduction is up to a maximum of 10%, after which the Employer may terminate the contract.
13. The Contractor's Works Manager will be present on site all the time that work is in progress. The Works Manager will keep a Works Notebook to record progress of the work.
14. The Project Manager, or any other person named as a representative by the Employer and notified to the Contractor, may inspect the work at any time. The Project Manager may instruct the Contractor to provide samples of materials for quality testing. The Project Manager may instruct the Contractor to dig inspection holes in completed sections of the work in order to allow inspection. The Contractor will cooperate with the Project Manager and allow the Project Manager to use the Contractor's staff and equipment as necessary to carry out inspections of the work.
15. All additional works undertaken on the instructions of the Project Manager for the purposes of inspection will be reimbursed at the rates shown in the Activity Schedule provided that such works inspected do not prove defective. Should the works prove defective all costs of inspection will be borne by the Contractor.

16. The Project Manager may issue instructions to the Contractor to ensure compliance with the Drawings and the Specification. The Project Manager may agree minor changes to the Drawings and the Specification, provided that these do not change substantially the final quantity and quality of the Works. The Project Manager may not instruct the Contractor to change the quantity of work shown in the Drawings, or to make any change that will substantially change the quality of the finished Works, without the written agreement of the Employer.
17. The Activity Schedule and the Work Program submitted by the Contractor shows stages of work that must be inspected and approved by the Project Manager. When these stages are reached the Contractor must not proceed further with the work until the Project Manager has given his approval. If the Contractor proceeds with the work without waiting for the Project Manager to inspect, so that the work to be inspected has been covered over, the Project Manager may instruct the Contractor to destroy that part of the work and construct again.
18. The Contractor agrees to ensure that the work is carried out in a safe manner and with the minimum disturbance to people living close to or passing by the site, or damage to the environment. The Employer must approve the place of disposing of excavated earth, dirty water or other waste materials before disposal starts.
19. On completion of the works the contractor shall be responsible for removing all plant, surplus materials and wastes from the site and for restoring the site to a clean and tidy condition.
20. The contractor guarantees the work for twelve months, starting from the actual date of completion of construction shown on Progress Report issued by the Project Manager. The Contractor agrees to make good, at his own expense, any defect that appears during that time due to quality of materials or workmanship.
21. From the Start Date until the end of the guarantee period, the risks of personal injury, death, and loss of or damage to property (including, without limitation, the Works, Plant, Material, and Construction Equipment) are Contractor's risks.
22. The Contractor shall provide, in the joint names of the Employer and the Contractor, insurance cover from the Start Date to the end of the guarantee period, in the following amounts and deductibles for the events which are due to the Contractor's risks:
 - a. *[insert an amount equal to Contract Price]* for Works, Plant and Materials;
 - b. *[insert an amount equal to 20% of Contract Price]* for loss or damage to Construction Equipment; and
 - c. *[insert an amount between USD 20,000 to USD 50,000]* for personal injury or death of Contractor's employees and all other people.
23. The policies and certificates for the insurance specified in Clause 19 above shall be delivered by the Contractor to the Project Manager for the Project Manager's approval before the Start Date.
24. If Force Majeure makes completion of the contract impossible, the Contractor may ask the Employer to release him from the Contract. The Contractor may request payment for that part of the works that is complete and intact at the time the request for release is made.

Article 4. Payment Provisions

25. The Contractor shall provide updated Activity Schedules within 14 days of being instructed to by the Project Manager. The activities on the Activity Schedule shall be coordinated with the activities on the Contractor's Work Program.
26. The Contractor shall show delivery of Materials to the Site separately on the Activity Schedule if payment for Materials on Site shall be made separately
27. The Activity Schedule shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion. Prices in the Activity Schedule shall not be altered when the Contractor makes such changes to the Activity Schedule
28. When the Contractor wishes to apply for payment he must submit a written Request for Payment to the Employer. The Project Manager will then verify the quantity of work completed and will check that the quality of the materials used and the quality of the Contractor's workmanship is in line with the Contract. The Project Manager will also check that the construction is following the Drawings and any instructions given by the Project Manager to the Contractor. The Project Manager shall then either:
 - (a) Issue a Progress Report (or Completion Report on completion of the Works) certifying that the conditions for release of the payment have been met, or;
 - (b) Issue a Progress Report detailing further work that must be done to meet the conditions for release of the payment.
29. The Employer shall retain ten percent from each payment due to the Contractor until completion of the whole Works. On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Guarantee Period has passed and the Project Manager has certified that all defects notified by the Project Manager to the Contractor before the end of this period have been corrected. On completion of the whole of Works, the Contractor may substitute retention money with an "on demand" bank guarantee valid for 30 calendar days beyond the expiry of the Guarantee Period. On receiving a Progress Report (or Completion Report) from the Project Manager, indicating that the conditions for release of any payment have been met, the Employer will issue a Payment Certificate. On receiving a Progress Report (or Completion Report) from the Project Manager, indicating that the conditions for release of any payment have been met, the Employer will issue a Payment Certificate.
30. Payments shall be made on a lump-sum basis upon fulfillment of the "payment conditions" as per the following Schedule:

[Columns 1, 2 and 4 of the payment schedule should be filled-in by the Employer before issuing the bidding documents. Column 3 to be filled-in before contract signing based on the amounts quoted by the bidder in the Activity Schedule submitted with the bid].

Stage of Payment (1)	% of Total Lump-Sum Contract Price (2)	Amount of Lump – Sum Payments (2) X Contract Price (3)	Deduction for Retention Money 10% of (3)	Payment Conditions <i>(Physical Stages of Works to be completed)</i> (4)
Payment No 1				
Payment No 2				
Payment on Completion of the Whole Works				
1 st half Retention Payment ²⁸	50% of the Retention Money		Nil	Upon satisfactory completion of the whole Works, as certified by the Project Manager.
2 nd half Retention Payment	50% of the Retention Money		Nil	Upon satisfactory completion of the Guarantee Period, as certified by the Project Manager or submission of “on demand” bank guarantee for an equivalent amount and valid until the expiry of the guarantee period.
Total			N/A	N/A

31. Payment shall be made in the currency of the bid price of the winning contractor.

32. Time allowed for processing of payments will be as follows:

- (a) The Project Manager will inspect the Works and report to the Employer within 1 week after receiving the Request for Payment;
- (b) If a satisfactory progress report is issued before the scheduled date for payments, the Employer must issue a Certificate for Payment not later than 2 week after receiving progress report from the Project Manager.
- (c) Payment will be made within 2 weeks of the date issue of the Payment Certificate.
 - (i) Therefore the Due Date for Payment will be 5 weeks after the date of Request for Payment.

²⁸ Retention money means any part of the contract price retained during the progress or after the completion of the work under the contract or subcontract.

33. If any payment is delayed for more than 1 calendar month after the Due Date for Payment, the Employer will pay interest to the Contractor at the rate of 1% of the amount of the payment for the first month and for each subsequent full calendar month during which payments are delayed. In addition, the number of calendar days during which the payment is delayed will automatically be added on to the time for completion of the project.
34. The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 calendar days before the submission of bids for the Contract and the date of the last Completion Certificate. The adjustment shall be the change in the amount of tax, duties and other levies payable by the Contractor, provided such changes are not already reflected in the Contract Price.
35. If the Contract is cancelled because of the fault of the Contractor, the Employer has the right to take over the Works and complete them by any other method. No payment will be made to the Contractor until the Works have been completed. Payment to the Contractor will be limited to the difference between the Contract price and the cost to the Employer of completing the part of the work that was not implemented by the Contractor.

Article 5. Fraud and Corruption

36. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:
 - (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from

disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP's inspection and audit rights provided for under sub-clause (e) below.

- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

Article 6. Termination of Contract

37. If the Contractor abandons the Works, refuses or fails to comply with a valid instruction of the Project Manager or fails to proceed expeditiously and without delay, the Employer may terminate the Contract by giving one week's notice.

Article 7. Special Conditions

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.....
.....

In witness of what has been agreed above, the signatures of the authorized representatives of the two Parties are affixed below on the date shown.

<div>▪ <i>Employer and affix Seal</i></div>	<div>▪ <i>Contractor and affix Seal</i></div>
_____	_____
Name of Authorised : ----- Representative	Name of Authorized : ----- Representative
Position : -----	Position : -----
Date : -----	Date : -----

SECTION 3 BILL OF QUANTITIES

[In preparing the bidding documents, the Employer should provide the indicative description of items, quantities and units in Columns 1, 2 and 3]

Bidders should fill in the unit and item prices in Columns 4 and 5 respectively, and submit this BOQ with the Bid. Bidders should read the Preamble carefully.

Preamble to the BOQ:-

1. This BOQ is for reference purposes only, and shall be used exclusively for determining the price of additional works not covered under the original scope of works, if any, approved by the project manager.
2. The description of items and quantities shown in the BOQ are indicative and the Employer provides no assurance of their accuracy. The BOQ, including prices quoted therein by the bidder, shall not constitute the basis for determination of the bid price or the contract price, nor for payments under the contract.
3. The bid price and contract price shall be based on the prices quoted by the bidder in the activity schedule-Section 6.
4. Payments under the contract shall be made on lump-sum basis at the specified stages stipulated in the payment schedule as per the conditions of contract.

Bill of Quantities for the Works					
Name of Project:					
Description of Contract:					
Site Location:					
Bidder Name:					
No.	Description of item	Qty	Unit	Unit Price	Total Price for Item
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
etc.					

We agree that the unit rates quoted above will be used to determine the price for any additional scope or works as instructed and approved by the Project Manager.

Name, Title and Signature of Bidder's Authorized representative-affix

Seal:.....Date:.....

SECTION 4 TECHNICAL SPECIFICATIONS AND DRAWINGS

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. These should be included here. The Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. The Specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Samples of Specifications from previous similar projects in the same country are useful in to prepare Specifications. The use of metric units is encouraged. Most Specifications are normally written specially by the Employer or Project Manager to suit the Contract Works in hand.

[Insert here a list of Drawings]

The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Section 5.1 Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

- (1) Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
- (2) Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
- (3) That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
- (4) We understand our obligation to allow the Royal Government of Cambodia or the [name of Development Partner] to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
- (5) That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
- (6) We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the funding agency and /or other sources for a period to be determined by them

Signed

Name of Bidder and affix Seal

SECTION 5.2 FORM OF BID

_____ [Date]

To: _____ [Employer's Name]
_____ [Employer's Address]

We offer to execute the _____ [name and number of Contract] in accordance with the Conditions of Contract accompanying this Bid for the Contract Price of _____ [amount in figures and words and currency] excluding any discounts offered below. We agree to complete the works according to the Drawings and the Specification and within the time allowed.

The discounts offered and the methodologies for their application are:

This Bid and your written acceptance will constitute a binding Contract between us. We understand that you are not bound to accept the lowest or any Bid you receive.

We hereby confirm that this Bid will remain valid for 60 calendar days after then Deadline for Submission of Bids.

We note and accept without reservation the Government's and the [name of Development Partner] (when other than the Government) right to audit and inspect any and all records relating both to the preparation of our Bid, and if our Bid is successful, the execution of the resulting contract.

Authorized Signature: _____

Name and Title of Signatory: _____

Name of Contractor and affix Seal: _____

Address: _____

Phone Number: _____

Fax Number, if any: _____

SECTION 6 ACTIVITY SCHEDULE

This form must be filled-in by the bidder and submitted with the bid. The activity schedule submitted by the bidder shall constitute the basis for the bid price and the subsequent contract price.

Name of Project:								
Name of Contractor:					Name of Works Manager:			
Contract Start Date:					Contract Completion Date:			
Description of Works Activities	Lump-sum Amount for Stage Payment(USD)	Start Date	Finish Date	Key Stage for Technical Monitoring	Name of Subcontract or, if any	Problems (if any)	Proposed Solution	
1.								
2.								
3.								
Describe above the Physical Works to be completed before 1st Stage Payment can be approved.								
1.								
2.								
3.								
Describe above the Physical Works to be completed before 2nd Stage payment can be approved.								
Name, Title, and Signature of Bidder/ Contractor's authorized Representative:								
Date:.....								

Name of Project

Footnote 1: Contract Implementation. The Contractor can point out the problems that may be encountered and the offer solutions to overcome them. However there can be no conditions introduced which will make the bid conditional. Bid must be unconditional, otherwise it shall be rejected.

SECTION 7 FORM OF CONTRACT AGREEMENT

AGREEMENT

This Agreement, made this _____ day of _____ [Month] 20____ [Year], by and between

[Name and address of Employer] hereinafter called “the Employer”] and

[Name and address of Contractor] hereinafter called “the Contractor”] on the other part.

Whereas the Employer is desirous that the Contractor execute _____

[Name and identification number of Contract] hereinafter called “the Works”) and the Employer has accepted the Bid submitted by the Contractor for the execution and completion of such Works and the remedying of any defects therein.

Now this Agreement witnessed as follows:

1. In this Agreement, words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract hereafter referred to, and they shall be deemed to form and be read and construed as part of this Agreement.
2. In consideration of the payments to be made by the Employer to the Contractor as hereinafter mentioned, the Contractor hereby covenants with the Employer to execute and complete the Works and remedy any defects therein in conformity in all respects with the provisions of the Contract.
3. The Employer hereby covenants to pay the Contractor in consideration of the execution and completion of the Works and the remedying of defects wherein the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

In Witness whereof the parties thereto have caused this Agreement to be executed the day and year first before written

The Common Seal of

was hereunto affixed in the presence of:

Signed, Sealed, and Delivered by the
said

in the presence of :

Binding Signature of Employer and affix
Seal: _____

Binding Signature of Contractor and affix
Seal: _____

Letter of Acceptance

[Letterhead of the Employer]

[The Letter of Acceptance shall be the basis for formation of the Contract as described in ITB 19. This Standard Form of Letter of Acceptance shall be filled in and sent to the successful Bidder only after evaluation of bids has been completed, subject to any review by DP, if required.]

[Insert Date]

Identification No and Title of Contract: *[insert identification number and title of the Contract]*

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

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 SCC]* for the Contract Price of United States Dollars *[insert amount in numbers and words]* as corrected and modified²⁹ in accordance with the Instructions to Bidders is hereby accepted by our Agency.

You are hereby instructed to sign and return the attached Contract Documents within 14 calendar days after receipt of this Letter of Acceptance.

Authorized Signature: _____

Name _____ and _____ Title _____ of _____ Signatory: _____

Name _____ of _____ Agency: _____

Attachment: Agreement

²⁹

Delete "corrected and" or "and modified" if not applicable. See Notes on Standard Form of Agreement, next page.

SECTION 8 BID AND PERFORMANCE SECURING DECLARATION

[If required, the Bidder shall fill in this form in accordance with the instructions indicated in brackets.]

Date: *[insert date]*

Name of contract: *[insert name]*

Contract Identification No: *[insert number]*

Invitation for Bid No.: *[insert number]*

To: _____

We, the undersigned, declare that:

- a) We understand that, according to your conditions, bids must be supported by a bid and performance securing declaration.
- b) We accept that we shall be suspended from being eligible for bidding in any contract with the Employer and the Government of Cambodia for the period of time of two years starting on the date of the Employer's execution of this Declaration, if we are in breach of our obligation(s) under the bid conditions and contract conditions, because we:
 - i) have withdrawn our Bid during the period of bid validity specified by us in the Bid Submission Sheet; or
 - ii) do not accept the correction of errors in accordance with the Instructions to Bidders of the Bidding Documents, or
 - iii) having been notified of the acceptance of our Bid by the Employer during the period of bid validity, fail or refuse to execute the Contract Form, if required, or
 - iv) committed a fundamental breach of contract leading to the Employer's termination of the contract for reasons of our default.
- c) We understand this bid securing declaration shall expire if we are not the successful bidder on *[insert date one month after the expiry of the bid validity]*, or in the event that our bid is successful and we are awarded a contract we understand that this bid and performance securing declaration will expire six months after the completion of the works.
- d) We understand that if we are a JV, the Bid and Performance Securing Declaration 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 Securing Declaration shall be in the names of all future partners as named in the letter of intent.

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

In the Capacity of *[insert title]*

Name *[insert printed or typed name]*

Duly authorized to sign the bid for and on behalf of *[insert authorizing entity]* and affix
Seal

Dated on *[insert day]* day of *[insert month]*, *[insert year]*

ANNEX IV e
Standard National Shopping
Document for Goods
(Below Advertising Threshold)

NATIONAL SHOPPING DOCUMENT

GOODS

Name & Address of prospective bidders who received copy of this document

No.	Name	Address
1		
2		
3		
4		

Specific Information Table

Invitation for Quotation (IFQ) No.	
Date of the Letter of Invitation Sent	
Contract No:	
Deadline for Submission of Quotation	Time Date
Validity after Submission Deadline	Thirty (30) days
Warranty period after delivery of all goods	<i>[Preferred minimum] 6 months</i>

Scope of Supply

<i>State the description of Goods</i>

COVER PAGE NOT TO BE ISSUED TO BIDDERS

KINGDOM OF CAMBODIA

Nation Religion King

Name of EA/IA

Funding Reference and Project Name

IFQ No.

Invitation for Quotation

The Royal Government of Cambodia has received a *credit/grant* [amend as appropriate] from DP towards the cost of [Name of Project] and intends to apply a portion of the proceeds of this credit/grant to eligible payments under the contracts for [Description of Goods]. The eligibility of bidders and of goods and services offered are subject to the applicable rules of the DP.

1. The [Name of EA/IA] hereinafter called "The Purchaser" now invites sealed quotations from eligible Suppliers hereinafter called "The Supplier" for [Description of Goods].
2. The quantity and description of all the goods to be supplied and related services and the delivery place & schedule are listed in Annex C: Quotation Price Schedule.
3. The quotation should be enclosed in a sealed envelope marked in capital letters: "QUOTATION FOR IFQ - reference number".
4. The envelopes should be delivered before [time] on [date] to the following office: [Name, physical and postal addresses and other contact information]
5. The quotation shall remain valid 30 days after the Deadline for Submission.

We are looking forward to receiving your complete and responsive quotation before the time limit stipulated above and in the manner described in Annex A: Instruction to Bidders.

Annex A. Instructions to Bidders

1. Eligibility of the Bidder and Goods

- 1.1 The Bidder must come from, and the goods must be manufactured in an ADB member country *[delete this requirement when the funding is not ADB]* or the bid is opened to all bidder who are not under any notice of disbarment by the RGC and DP.

2. Language of Quotation

- 2.1 The quotation prepared by the Bidder shall be written in English *[amend as appropriate]*.

3. Document comprising the Quotation and Currency

- 3.1 The Bidder shall complete the attached Quotation Price Schedule (see Annex C)
- 3.2 Prices shall be quoted in US Dollar or Riels *[amend as appropriate]*.

4. Conformance to Specification

- 4.1 Documents Establishing Goods/Services' Conformity to Specifications and Quality Standards
- 4.2 The Bidder shall furnish documents establishing the conformity of all proposed goods and services as follows:
- (a) a detailed description of the essential technical and performance characteristics of the goods/services;
 - (b) an item-by-item commentary on the Purchaser's Technical Specifications demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

5. Bidder Prices:

- 5.1 Prices should be inclusive of all costs such as customs duties, sales and other taxes paid or payable if the contract is awarded, transportation, insurance, and other local charges required. Prices shall remain fixed and is not subject to price adjustment during the period of performance of the contract.

6. Award Criteria

- 6.1 The Purchaser will award the contract to the successful Bidder whose responsive Quotation has been determined to be the lowest priced one and a Letter of Award issued which will form the basis of the Contract.

7. Purchaser's Right to Accept any Quotation and to Reject any or All Quotations

- 7.1 The Purchaser reserves the right to accept or reject any quotation, and to annul the quotation process and reject all quotations at any time prior the Letter of Award , without thereby incurring any liability to the affected Bidder or bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Purchaser's action.

8. Fraud and Corruption

8.1 The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the Royal Government of Cambodia (RGC) and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;

- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
 - (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.
- 8.2 All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Annex E and submit it with their bid.

Annex B. Technical Specifications

Items	Description of Equipment/ Related Services Required		Description of Equipment/Related Services Offered
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18	Services		

Annex C. Quotation Price Schedule

1	2	3	4	5	6	7	8
Item	Description	Country of Origin	Unit	Quantity	Unit Price (Delivery at Final Destination)	Total Price (col 5*6)	Expected Delivery
<i>Description of Contract :</i>							
1							
2							
3							
4							
5							
6							
7							
8							
9							
18	Services						
State currency of quotation (USD or KHR):					Total:		

Signature of Bidder _____

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

Annex D. Quotation Form

To: name, address, contact information of EA/IA

Dear Sir,

We are pleased to offer the following quotation for [*Description of Goods*] as specified in your " INVITATION FOR QUOTATION (IFQ – *reference number*)" for the sum of_____ [Amount in figures and words and currency].

We agree to supply the goods and services on the following conditions:

1. Warranty / Guarantee Period: _____
2. Delivery/Completion Period: [*Delivery shall be according to actual orders*].
3. Terms of Payment: Term of Payment will be in accordance with Article 3: Payment Provision specified in the attached Conditions of Contract.

We understand that you are not bound to accept all or any quotations you may receive.

Dated this _____ Day of _____, 20

(Signature and Company)

(In the capacity of)

[The **Bidder** shall fill in and submit this form with the Bid.]

Annex E. Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

7. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
8. Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
9. That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
10. We understand our obligation to allow the Government or the Development Partner to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
11. That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
12. We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the Development Partner and /or other sources for a period to be determined by them.

Authorized Signature: _____

Name and Title of Signatory _____

Name of Bidder and Affix Seal: _____

Address: _____

Phone Number _____

Fax Number, if any _____

Letter of Award

KINGDOM OF CAMBODIA

Nation Religion King



Name of EA/IA

TO: *Name and address of Successful Bidder*
FROM: *Name and contact information for EA/IA*
Date:
SUBJECT: *Contract Number and Description*

Dear Sir,

We are pleased to accept your offer of the below goods/services *[amend as appropriate]* as per the below detail and as per your attached quotation **for** the sum of US\$ and we agree that you supply these goods / perform the services *[amend as appropriate]* on the following conditions:

1.

Item	Description	Unit	Quantity	Unit Price	Total Price USD
	Grand Total:				USD

2. Warranty/Guarantee period: 12 months *[amend as appropriate]*.
3. Warranty/Guarantee Conditions: The goods are in line with the manufacturer's specifications attached and that they will perform in line with these specifications and the manufacturers guarantee / warranty also attached *[amend as appropriate]*.
4. Delivery conditions: Good must be delivered at the specified address on or before *[day]* from the date of this Letter of Award.
5. Terms of Payment: The terms of payment will be in accordance with Article 3: Payment Provisions specified in the attached Conditions of Contract.
6. The attached Conditions of Contract for the Supply of Goods apply to this Letter of Award.

FOR THE PURCHASER

FOR THE SUPPLIER

Signed, Stamped, delivered by:

Title: *title of EA Representative*

Signed, Stamped, delivered by: *Name of Supplier*

Title: Representative of *Supplier*

Name of Supplier

Date

Date.....

Attached:

Supplier/Contractor Quotation

Manufacturer's Specifications

Manufacturer's Guarantee/ Warranty

CONDITIONS OF CONTRACT FOR THE SUPPLY OF GOODS

Article 1. General Provisions

1. The Supplier confirms that he has examined, read and understood fully all the Contract Documents, being
 - The Invitation for Quotation,
 - The Technical Specifications,
 - The Letter of Award
 - The Quotation Price Schedule,
 - The Quotation Form
 - The Conditions of Contractwhich together form the Contract
2. The Contract shall be amended only by written agreement between the Purchaser and the Supplier.
3. The laws of the Kingdom of Cambodia will be applicable to the Contract. Every effort shall be made to resolve disputes amicably and without recourse or referral to third parties. Any dispute that cannot be resolved amicably shall be referred by either Party to the (Arbitration Council of Cambodia) Cambodian Chamber of Commerce for adjudication in accordance with the under the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

Article 2. Purchaser's and Supplier's Obligations

4. The Purchaser and the Supplier now agree as follows:
 - The Purchaser pledges to pay the Supplier, the Contract Price, _____ (Insert amount in words and figures). This amount is for the full delivery of the goods listed in the Price and Delivery Schedule.
 - The Supplier shall supply:
.....
(insert description of the goods) on or before the delivery date and at the final destination (Project Site), as stipulated in the Price and Delivery Schedule, and conforming to the standards as stipulated in the Technical Specifications. The Supplier shall be responsible for fully insuring the

Goods against loss or damage from “warehouse to warehouse” (final destination) on “All Risk basis”.

5. The Purchaser has the right to reduce the payment to the Supplier by 0.1% of the total price of the Contract for each day of delay beyond the delivery date shown in the Price and Delivery Schedule. The reduction is up to a maximum of 10%, after which the Purchaser may terminate the contract.
6. If Force Majeure makes completion of the contract impossible, the Supplier may ask the Purchaser to release him from the Contract.
7. The Supplier guarantees that all goods supplied will be new and unused and carry a warranty of _____ months *[insert warranty period required of between 6 months to 12 months depending on the goods being purchased]* starting from the actual delivery date of the goods. Throughout this period the Supplier agrees to make good, at its own expense, any defect that appears during that time due to quality of materials or workmanship.

Article 3. Payment Provisions

8. Payments will only be made on or after the due date shown in the schedule below, and after fulfillment of the “payment conditions” (whichever is the later).

[Note: The following is a sample payment schedule, which the Purchaser may retain or reasonably modify, if necessary, to suit the specific requirements of the contract. This note should be deleted from the final contract].

<i>Payment Schedule</i>			
Steps of Payment	Amount	Scheduled Date	Payment Conditions
Payment No 1	90% of the value of delivered Goods		Upon receipt of the Goods and warranty certificate issued by the Manufacturer
Payment No 2	10% of the value of delivered goods		Upon inspection and acceptance of the goods

9. Time allowed for processing of payments will be as follows:
 - 90% of the value of the goods delivered. The Purchaser will issue a receipt for the goods upon delivery and receipt of the necessary warranty certificates issued by the manufacturer. The Supplier shall submit its commercial invoice with the original receipt attached and three copies of

both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 calendar days of submission;

- Balance 10% of the value of the goods delivered. Within 30 calendar days of receiving the goods, the Purchaser will undertake any inspections and tests that it deems necessary. Provided that the goods pass any such inspection or tests the Purchaser will issue an acceptance certificate to the Supplier. The Supplier shall submit its commercial invoice with the original acceptance certificate attached and three copies of both, signed by the supplier as true and correct copies. The Purchaser will effect payment within 30 calendar days of submission.
- In the event that after the expiry of 30 calendar days after the delivery of the goods, the Purchaser does not provide the Supplier with an acceptance certificate (or issue instructions to repair or replace any defective goods), the Supplier shall submit its invoice in three copies signed as true and correct, for 5% of the value of the goods delivered and the Purchaser will effect payment within 30 calendar days of submission.

10. If any payment is delayed for more than 1 calendar month after the Due Date for Payment, the Purchaser will pay interest to the Supplier at the rate of 1% of the amount of the payment for the first month and for each subsequent full calendar month during which payments are delayed.

Article 4. Fraud and Corruption

11. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;

- (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
- (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;
- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP’s sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP’s financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the

submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

12. The Development Partner will cancel the portion of the funds allocated to a contract if it determines at any time that representatives of the Borrower or Recipient or of a beneficiary of the funds engaged in corrupt, fraudulent, collusive or coercive practices during the procurement or the execution of that contract, without the Borrower or Recipient having taken timely and appropriate action satisfactory to the Development Partner to remedy the situation.

Article 5. Special Conditions

.....

In witness of what has been agreed above, the signatures of the authorized representatives of the two Parties are affixed below on the date shown.

▪ Purchaser	▪ Supplier
_____Affix Official	_____Affix official
Seal_____	Seal_____
Name -----	Name : -----
Position -----	Position : -----
Date -----	Date : -----

ANNEX IV f
Standard National Shopping
Documents for Works
(Below Advertising Threshold)

NATIONAL SHOPPING DOCUMENT (WORKS)

Name & Address of prospective bidders who received copy of this document

No.	Name	Address
1		
2		
3		

Specific Information Table

Invitation for Quotation (IFQ) No.	
Date of the Letter of Invitation Sent:	
Contract No.	
Deadline for Submission of Quotation	Time Date
Validity after Submission Deadline	Thirty (30) days
Guarantee Period	<i>[Preferred minimum] 180 days after completion of works</i>

Scope of Works

state here the functional objective of the procurement, eg to build a classroom suitable for teaching 50 children

COVER PAGE NOT TO BE ISSUED TO BIDDERS

KINGDOM OF CAMBODIA

Nation Religion King

Name of EA/IA

Funding Reference and Name of Project

IFQ No.

Invitation for Quotation

The Royal Government of Cambodia has received a *credit/grant* [amend as appropriate] from [Name of DP] towards the cost of [Name of Project] and intends to apply a portion of the proceeds of this credit/grant to eligible payments under the contracts [description of works]. The eligibility of bidders and of goods and services offered are subject to the applicable rules of the DP.

1. The [EA/IA] hereinafter called "The Employer" now invites sealed quotations from eligible contractors hereinafter called "The Contractor " for [description of the works]
2. The quantity and description of all the works to be performed and the site & schedule are listed in **Annex C: Priced Activity Schedule**.
3. The quotation should be enclosed in a sealed envelope marked in capital letters: "QUOTATION FOR *reference title* IFQ – *reference number*".
4. The envelopes should be delivered before [time] on [date] to the following office: [name, physical and postal addresses and other contact information].
5. The quotation shall remain valid 30 days after the Deadline for Submission.

We are looking forward to receiving your complete and responsive quotation before the time limit stipulated above and in the manner described in Annex A: Instruction to Bidders.

Annex A. Instructions to Bidders

1. Eligibility of the Bidder and Goods

- 1.1 The Bidder must come from, and the materials used must be manufactured in an ADB member country *[delete this requirement when the funding is not ADB]* or the bid is opened to all bidders who are not under any notice of disbarment from the RGC/DP.

2. Language of Quotation

- 2.1. The quotation prepared by the Bidder shall be written in Khmer or English *[amend as appropriate]*.

3. Document comprising the Quotation and Currency

- 3.1. The Bidder shall complete the attached Annex C: Priced Activity Schedule
- 3.2. Prices shall be quoted in US Dollar or Riels *[amend as appropriate]*.

4. Conformance to Specification

- 4.1. Documents Establishing Works/Services' Conformity to Specifications and Quality Standards (Annex B)
- 4.2. The Bidder shall furnish documents establishing the conformity of all proposed works and services as follows:
 - (a) a detailed description of the essential technical and performance characteristics of the works/services;
 - (b) an item-by-item commentary on the Contractor's Technical/Design Specifications demonstrating substantial responsiveness of the works and services to the design specifications, and a statement on the methodology of construction.

5. Bidder Prices:

- 5.1. Rates and prices shall be quoted for all items and the whole works and items where no rate has been quoted will not be paid by the Employer and shall be deemed covered by the other rates and prices in the Priced Activity Schedule.
- 5.2. All duties, taxes, and other levies payable by the Bidder under the Contract, or for any other cause, shall be included in the rates, prices, and the total Bid price submitted by the Bidder.
- 5.3. Prices shall remain fixed and is not subject to price adjustment during the period of performance of the contract.

6. Award Criteria

- 6.1. The Employer will award the Contract to the successful Bidder whose responsive Quotation has been determined to be the lowest priced one provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily.

7. Employer's Right to Accept any Quotation and to Reject any or All Quotations

- 7.1. The Employer reserves the right to accept or reject any quotation, and to annul the quotation process and reject all quotations at any time prior the issuance of the Letter of Award, without thereby incurring any liability to the affected Bidder or

bidders or any obligation to inform the affected Bidder or bidders of the grounds for the Purchaser's action.

8. Fraud and Corruption

8.1. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the Royal Government of Cambodia (RGC) and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices in competing for the contract in question;

- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time:
 - (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

8.2. All bidders are required to complete the Statement on Ethical Conduct and Fraud and Corruption which can be found in Annex E and submit it with their bid.

Annex B 1. Technical Specification and Drawing

A set of precise and clear Specifications is a prerequisite for bidders to respond realistically and competitively to the requirements of the Employer without qualifying or conditioning their bids. These should be included here. The Specifications must be drafted to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. The Specifications should require that all goods and materials to be incorporated in the Works be new, unused, of the most recent or current models, and incorporate all recent improvements in design and materials unless provided otherwise in the Contract.

Samples of Specifications from previous similar projects in the same country are useful in to prepare Specifications. The use of metric units is encouraged. Most Specifications are normally written specially by the Employer or Project Manager to suit the Contract Works in hand.

[Insert here a list of Drawings]

The actual Drawings, including site plans, should be attached to this section or annexed in a separate folder.

Annex B 2. Technical/Design Specificationsⁱ⁾

Items	Description of Major Work Required		Statement on Design Specifications and Construction Methodology
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			

i) To be completed by Bidder

Annex C. Priced Activity Schedule

1	2	3	4	5	6	7	8
Item	Description of Works Activities	Unit	Quantity	Unit Price	Total Lump Sum Price (col 4*5)	Start Date	Finish Date
1							
2							
3							
4							
5							
	Total:						

Signature of Bidder _____

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

Annex D. Quotation Form

To: Name, address, contact information of EA/IA

Dear Sir,

We are pleased to offer the following quotation for *[description of works]* as specified in your " INVITATION FOR QUOTATION (IFQ – reference number) for the fixed lump sum price of _____ *[Amount in figures and words and currency]*.

We agree to execute the works on the following conditions:

1. Guarantee Period: 6 months form date of issuance of completion certificate
2. Completion Date: *[State Intended Completion Date]*
3. Terms of Payment: We will submit progress payment request when 50% of the Works is completed and payments will be made when progress is certified by the Project Manager. The Balance of 50% will be paid on completion of the Works *[if the works is of large value, payment can be based on monthly progress payments as certified by the Project Manager]*.
4. Contract Price: The Contract Price is on lump sum based and shall remain fixed and is not subject to price adjustment.

We understand that you are not bound to accept all or any quotations you may receive.

Dated this _____ Day of _____, 20

(Signature and Company)

(In the capacity of)

[The **Bidder** shall fill in and submit this form with the Bid.]

Annex E. Statement on Ethical Conduct and Fraud and Corruption

We the undersigned confirm in the preparation of our bid that:

1. Neither we, nor any of our employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
2. Should we become aware of the potential for such a conflict will report it immediately to the procuring organization.
3. That neither we, nor any of our employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of our bid or proposal.
4. We understand our obligation to allow the Government or the Development Partner to inspect all records relating to the preparation of our bid and any contract that may result from such irrespective of if we are awarded a contract or not.
5. That no payments in connection with this procurement exercise have been made by us our associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
6. We understand that if we are found to be in breach of this declaration we will be ineligible to be considered for any contracts with the Royal Government of Cambodia funded by the Development Partner and /or other sources for a period to be determined by them.

Authorized Signature: _____

Name and Title of Signatory _____

Name of Bidder and Affix Seal: _____

Address: _____

Phone Number _____

Fax Number, if any _____

KINGDOM OF CAMBODIA

Nation Religion King



Name of EA/IA

Letter of Award

TO: *Name and address of successful bidder*
FROM: *Name and contact information for EA/IA*
Date:
SUBJECT: *Contract No/ Description of Works*

Dear Sir,

We are pleased to accept your offer for the execution of [*description of the Works*] as per your attached quotation dated [*date, month and year*] for the fixed lump sum price amount of ____ [*amount in figures and words and currency*]. We agree that you execute the said works on the following conditions:

1.

Item	Description	Unit	Quantity	Unit Price USD	Total Price USD
	Grand Total:				USD

2. Guarantee Period: Six months from date of the issuance of Completion Certificate by the Employer's designated Project Manager of the Contract.
3. Completion Date: The Start Date is: [*insert date, normally at least 14 calendar days after the signing of this Letter*]. Completion is [*calendar days*] after the Start date.
4. Terms of Payment: The Terms of Payments will be in accordance with Article 3: Payment Provisions of the attached Conditions of Contract.
5. The Employer's Designated Project Manager is: [*state name and contact details*]
6. The attached Conditions of Contract for Civil Works apply to this Contract.

FOR THE Employer

FOR THE CONTRACTOR

Signed, Stamped, delivered by:

Title: *Representative of EA*

Signed, Stamped, delivered by: *name of contractor*

Title: *Authorised Representative*

Date

Date.....

Attached:

Conditions of Contract

CONDITIONS OF CONTRACT FOR CIVIL WORKS

Article 1. General Provisions

1. The Employer has appointed the person named in the Letter of Award to be the Project Manager who will supervise implementation of the contract.
2. The Contractor confirms that he has examined, read and understood fully all the Contract Documents, being
 - (a) The Invitation for Quotation
 - (b) The Technical Specifications and the Drawings ,
 - (c) The Priced Activity Schedule
 - (d) The Quotation Form,
 - (e) The Letter of Award and
 - (f) The Conditions of Contractwhich all together form the Contract
3. The Employer has approved the Work Plan submitted by the Contractor, including the Works Start Date, the Works Completion Date, and the person representing the Contractor, who will act as Works Manager.
4. The language of the Contract is English, and the law is that governing contracts in force in the Kingdom of Cambodia.
5. The Contract shall be amended only by written agreement between the Employer and the Contractor.
6. Every effort shall be made to resolve disputes amicably and without recourse or referral to third parties. Any dispute that cannot be resolved amicably shall be referred by either Party to the Cambodian Chamber of Commerce [Arbitration Council of Cambodia-discuss] for adjudication in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce.

Employer's and Contractor's obligations

7. The Employer and the Contractor now agree as follows:
 - 7.1 The Employer pledges to pay the Contractor the Contract Price stated in the Letter of Award. This amount is all inclusive price for the full quantity of work shown on the Drawings, including materials, transport to the site, labor, profit, and all taxes and duties.
 - 7.2 The Contractor pledges to construct the works on or before the completion date. On or before the Works Start Date, the Project Manager or a Technical Supervisor, acting as a representative of the Project Manager, will indicate the exact location where the works are to be constructed.

Article 2. Conditions for Execution of the Works

8. The Contractor shall not, without the written consent of the Employer, sub-contract any part of the Works. In the event the Employer approves the sub-contracting; such consent shall not relieve the Contractor of his obligations under the Contract.
9. The Contractor shall start the Contract and implementation of the Works on the start date specified in the Letter of Award and shall complete the whole of the works not later than the number of calendar days stated in the Letter of Award. If implementation of the Contract is delayed due to any circumstances or event, which could not have been foreseen by an experienced contractor, the Contractor must inform the Project Manager immediately about the delay. If the Project Manager considers that an extension of time for the Contract is justified, the Contractor must submit an amended Work Plan, agreed with the Project Manager, for approval by the Employer.
10. If, 15 days after the Works Start Date, the Contractor has not started to implement the project, the Employer has the right to cancel the contract. If, at any time, implementation of any part of the Works is delayed by more than 100 calendar days beyond the dates shown in the Work Plan, the Employer has the right to cancel the contract. In either circumstances should the delays be attributable to a breach on the part of the Contractor, the Contractor will be disbarred from providing any goods, works or services on any publicly funded contract for a period of not less than three years.
11. The Employer has the right to reduce the payment to the Contractor by 0.1% of the total price of the Contract for every day of delay after the Intended Completion Date or as extended by the Project Manager in accordance with Paragraph 9 of these instructions, until the work is complete. The reduction is up to a maximum of 10%, after which the Employer may terminate the contract.
12. The Contractor's Works Manager will be present on site all the time that work is in progress. The Works Manager will keep a Works Notebook to record progress of the work.
13. The Project Manager, or any other person named as a representative by the Employer and notified to the Contractor, may inspect the work at any time. The Project Manager may instruct the Contractor to provide samples of materials for quality testing. The Project Manager may instruct the Contractor to dig inspection holes in completed sections of the work in order to allow inspection. The Contractor will cooperate with the Project Manager and allow the Project Manager to use the Contractor's staff and equipment as necessary to carry out inspections of the work.
14. All additional works undertaken on the instructions of the Project Manager for the purposes of inspection will be reimbursed at the rates shown in the Quotation Price Schedule provided that such works inspected do not prove defective. Should the works prove defective all costs of inspection will be borne by the Contractor.
15. The Project Manager may issue instructions to the Contractor to ensure compliance with the Drawings and the Specification. The Project Manager

may agree minor changes to the Drawings and the Specification, provided that these do not change substantially the final quantity and quality of the Works. The Project Manager may not instruct the Contractor to change the quantity of work shown in the Drawings, or to make any change that will substantially change the quality of the finished Works, without the written agreement of the Employer.

16. The Work Program submitted by the Contractor shows stages of work that must be inspected and approved by the Project Manager. When these stages are reached the Contractor must not proceed further with the work until the Project Manager has given his approval. If the Contractor proceeds with the work without waiting for the Project Manager to inspect, so that the work to be inspected has been covered over, the Project Manager may instruct the Contractor to destroy that part of the work and construct again.
17. The Contractor agrees to ensure that the work is carried out in a safe manner and with the minimum disturbance to people living close to or passing by the site, or damage to the environment. The Employer must approve the place of disposing of excavated earth, dirty water or other waste materials before disposal starts.
18. On completion of the works the contractor shall be responsible for removing all plant, surplus materials and wastes from the site and for restoring the site to a clean and tidy condition.
19. The contractor guarantees the work for six months, starting from the actual date of completion of construction shown on Completion Certificate issued by the Project Manager. The Contractor agrees to make good, at his own expense, any defect that appears during that time due to quality of materials or workmanship.
20. If Force Majeure makes completion of the contract impossible, the Contractor may ask the Employer to release him from the Contract. The Contractor may request payment for that part of the works that is complete and intact at the time the request for release is made.

Article 3. Payment Provisions

21. The Contractor shall provide updated Work Plan within 14 days of being instructed to by the Project Manager. The Work Plan shall show the activities that the Contractor will carry out and the corresponding completion date for the activity.
22. The Work Plan shall be amended by the Contractor to accommodate changes of Program or method of working made at the Contractor's own discretion.
23. The first payment will be made when the progress in the construction reaches 50% and the second payment on completion of whole of the Works. The Contractor can apply for payment by submitting a written Request for Payment to the Employer. The Project Manager will then verify the quantity of work completed and will check that the quality of the materials used and the quality of the Contractor's workmanship is in line with the Contract. The Project Manager will also check that the construction is following the

Drawings and any instructions given by the Project Manager to the Contractor. The Project Manager shall then either:

- (a) Issue a Progress Report (or Completion Report) certifying that the conditions for release of the payment have been met, or;
- (b) Issue a Progress Report detailing further work that must be done to meet the conditions for release of the payment.

[In case payments are to be made in more than two stage payments, amend the clause accordingly to match the number of staged payment]

24. The Employer shall retain ten percent from the first payment due to the Contractor until completion of the whole Works. On completion of the whole of the Works, half the total amount retained shall be repaid to the Contractor and half when the Guarantee Period has passed and the Project Manager has certified that all defects notified by the Project Manager to the Contractor before the end of this period have been corrected. On completion of the whole of Works, the Contractor may substitute retention money with an "on demand" bank guarantee valid for 30 calendar days beyond the expiry of the Guarantee Period. On receiving a Progress Report (or Completion Report) from the Project Manager, indicating that the conditions for release of any payment have been met, the Employer will issue a Payment Certificate.

25. Payments shall be made on a lump-sum basis upon fulfillment of the "payment conditions" as per the following Schedule:

[Columns 1, 2 and 4 of the payment schedule should be filled-in by the Employer before issuing the bidding documents. Column 3 to be filled-in before contract signing based on the amounts quoted by the bidder in the Activity Schedule submitted with the bid].

Payment Schedule				
Stages of Payment	% of Total Lump-Sum Contract Price	Amount of Lump – Sum Payment (2) X Contract Price	Deduction for Retention Money 10 % of (3)	Payment Conditions (Physical Stages of Works to be completed)
(1)	(2)	(3)	(4)	
Payment No 1	50% of the Contract Price			Progress of the Works reaches 50%
Payment No 2	Balance 50% of the Contract Price			On Completion of the Whole Works
1st Retention Payment	50% of Retention Money		Nil	Upon satisfactory completion of the whole Works and issuance of a Completion Report by the

				Project Manager.
2 nd Retention Payment	50% of Retention Money		Nil	Upon expiry of the Guarantee Period or on submission of an "on demand" bank guarantee for an equivalent amount and valid until the expiry of the Guarantee Period after issuance of Completion Report.
Total			N/ A	N/ A

[Payments can also be made in more than two stage payments in which case the payment schedule should be amended to match the number of stage payment]

26. Payment shall be made in the currency of the bid price of the winning contractor.
27. Time allowed for processing of payments will be as follows:
 - (a) The Project Manager will inspect the Works and report to the Employer within 1 week after receiving the Request for Payment;
 - (b) If a satisfactory progress report is issued before the scheduled date for payments, the Employer must issue a Certificate for Payment not later than 1 week after receiving progress report from the Project Manager.
 - (c) Payment will be made within 1 week of the date issue of the Payment Certificate.
 - (d) Therefore the Due Date for Payment will be 3 weeks after the date of Request for Payment.
28. If any payment is delayed for more than 1 calendar month after the Due Date for Payment, the Employer will pay interest to the Contractor at the rate of 1% of the amount of the payment for the first month and for each subsequent full calendar month during which payments are delayed. In addition, the number of calendar days during which the payment is delayed will automatically be added on to the time for completion of the project.
29. The Project Manager shall adjust the Contract Price if taxes, duties, and other levies are changed between the date 28 calendar days before the submission of bids for the Contract and the date of the last Completion certificate. The adjustment shall be the change in the amount of tax, duties and other levies payable by the Contractor, provided such changes are not already reflected in the Contract Price and can be substantiated with supporting documents
30. If the Contract is cancelled because of the fault of the Contractor, the Employer has the right to take over the Works and complete them by any other method. No payment will be made to the Contractor until the Works have been completed. Payment to the Contractor will be limited to the

difference between the Contract price and the cost to the Employer of completing the part of the work that was not implemented by the Contractor.

Article 4. Fraud and Corruption

31. The Development Partner requires that Borrowers or Recipients (including beneficiaries of the funds), as well as bidders, suppliers, contractors and their agents (whether declared or not), sub-contractors, sub-consultants, service providers or suppliers, and any personnel thereof, observe the highest standard of ethics during the procurement and execution of contracts. In pursuance of this policy, both the RGC and the Development Partner:

- (a) defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) “Corrupt Practices” mean the offering, giving, receiving, or soliciting directly or indirectly of anything of value to influence improperly the actions of another party.
 - (ii) “Fraudulent Practices” is any act or omission including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain financial or other benefit or to avoid an obligation;
 - (iii) “Collusive Practices” is an arrangement between two or more parties, designed to achieve an improper purpose, including to influence improperly the actions of another party;
 - (iv) “Coercive Practices” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party, or the property of the party to influence improperly the actions of a party.
 - (v) “Obstructive Practices” mean: deliberately destroying, falsifying, altering, or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a DP investigation into allegations of a corrupt, fraudulent, coercive, or collusive practice; and/or threatening, harassing, or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or acts intended to materially impede the exercise of the DP’s inspection and audit rights provided for under sub-clause (e) below.
- (b) will reject a proposal for award if it determines that the bidder recommended for award, or any of its personnel, or its agents, or its sub-consultants, sub-contractors, service providers, suppliers and/or their employees, has, directly or indirectly, engaged in corrupt, fraudulent,

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

- (c) The DP will declare misprocurement and cancel the portion of the loan allocated to a contract if it determines at any time that representatives of the Borrower or of a recipient of any part of the proceeds of the loan engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices during the procurement or the implementation of the contract in question without the Borrower having taken timely and appropriate action satisfactory to the DP to address such practices when they occur, including by failing to inform the DP in a timely manner at the time they knew of the practices;
- (d) will sanction a firm or individual, at any time, in accordance with the prevailing DP's sanctions procedures, including by publishing declaring such firm or individual ineligible, either indefinitely or for a stated period of time: (i) to be awarded a DP's financed contract; and (ii) to be a nominated sub-contractor, consultant, supplier, or service provider of an otherwise eligible firm being awarded a DP-financed contract if it at any time determines that the firm or individual has engaged in corrupt, fraudulent, coercive, collusive, or obstructive practices in competing for, or in executing, a DP -financed contract; and
- (e) will have the right to require that a clause be included in bidding documents and in contracts financed by DPs, requiring bidders, supplier, and contractor, and their sub-contractors, agents, personnel, consultants, service providers, or suppliers, to permit both the Government and the DP to inspect all accounts, records and other documents relating to the submission of bids and contract, and to have them audited by auditors appointed by the either the DP or Government.

Special Conditions

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Annex V

Minutes of Negotiation Guides and Templates

Annex V a

Minutes of Negotiation Template, Consulting Services Assignments for Lump Sum or Time-Based Contracts

All the DPs, such as ADB or World Bank have their own Standard Forms of Contract for the different methods of selection and templates for minutes of negotiations. In all cases the DPs standard forms and templates must be used. What follows is therefore a guide only, which is based around the Quality and Cost Based Selection procedure (which is the one most commonly used).

The guidance notes shown in italics in the middle column are to be deleted during negotiations and replaced with the substance of the issue negotiated and the right hand column should summarize the agreement reached. The guidance note should not be shared with the consultants and are meant to guide the client only. In all cases the clients negotiating team should meet in advance of meeting with the consultants to discuss and agree important negotiation issues in advance such as possible changes to the TOR or work plan.

The areas shaded in gray should be reviewed and amended and included in the draft contract sent to all consultants as part of the request for proposals as they can be defined in advance and are within the control of the client to determine. This does not mean that they cannot be amended during the course of negotiations.

The details should be recorded during the course of negotiation and the minutes reviewed at the start of each day of negotiation. On the final day of negotiation the final version of the minutes should be reviewed and initialed by the representative of the client and consultant and sent to the DP for information along with the draft contract.

The first part of the minutes deals with the work plan and terms of reference. The minutes then go through the contract to be used under QCBS procedures clause by clause. This is the suggested form of negotiations although clients and consultants are free to address each issue in a different sequence if they wish. The subject of each clause is the only for reference, but clause numbers in brackets are given which refer to the ADB Consultant Services Contract, April 2011 version.

Contract Information

Loan/Credit Number		Implementing Agency
Contract Number		Contract Description
Financial Proposal Amount		Consultants Name
Venue for Negotiations		Date of Negotiations
Total Amount of Remuneration (Proposal)		Total Amount of Remuneration (Negotiated Contract)
Lead Negotiator, Client		Lead Negotiator, Consultants

MINUTES OF NEGOTIATION

Issue/Clause	Detail of Negotiation	Agreement Reached
Scope of Use	<i>The guide can be used for all negotiations but the standard Forms Of Contract recommended by DP, where specified, should be used. Where price has been a factor in the evaluation of proposals (like QCBS/LCS) the remuneration rates are not negotiated. In case of QBS, the remuneration rates can be negotiated.</i>	
General	<i>The primary purpose of the negotiation process is to arrive at a contract satisfactory to both parties based upon the consultants proposal and not to reduce the cost of the contract. Negotiations that are solely held to significantly reduce costs through the reduction of consulting inputs invariably reduce not only the quantative elements of the resulting contract but more importantly the qualative aspects. No negotiations will be allowed or permitted that reduce or increase the total remuneration for the services by more than 15% of the original amount proposed. Negotiations on price should only be conducted with the prior approval of the DP.</i>	
The work plan	<i>Negotiations on the consultant's work plan are permitted and to a certain degree expected. The negotiations should focus on how to ensure that the consultants' work plan will deliver the maximum of value to the client and ensuring that all of the consulting team's time will be as productive as possible. Significant dates and milestones may be moved with the agreement of both parties to ensure that eternal deadlines and targets are met.</i>	
The Terms of Reference	<i>These will be reviewed by the consultant and the client to ensure that they reflect the consultants' methodology and work plan. In addition to this the client will consider incorporating any suggestions and comments made in the consultants' technical proposal. The fundamental objective and outputs of the TOR should however remain unchanged as this was the basis on which all of the consulting firms</i>	

	<p><i>submitted their technical proposals.</i></p> <p><i>Any changes made to the TOR during the course of negotiations will require the specific no objection of the DP prior to signing of contract.</i></p>	
Agreement (ADB Standard Form)	<p><i>The first paragraph is self explanatory. The term association means any and all members of the consortium or joint venture if one has been formed. There is no need to list sub-contracted firms and consultants</i></p>	
Agreement (ADB Standard Form)	<p><i>In the third paragraph if the client and consultant have agreed to contract on a lump sum basis include the words in parentheses; if the contract will be time based delete them.</i></p>	
Reporting Requirements (Clause 2)	<p><i>Particular attention should be given to the content and frequency of the reports. Most especially in lump sum type contracts it is essential that the reports, their frequency and content are accurately described to the satisfaction of both parties as these reports form the contractual deliverables from the consultants'.</i></p> <p><i>A comprehensive list should be discussed and agreed along with their format, timing and distribution, then listed below this clause. Make sure that there is a description of the 500 word knowledge summary that is required in the final report.</i></p>	
Personnel (Clause 3)	<p><i>Check the list of personnel proposed by the consultant and agreed by the client by name and position.</i></p> <p><i>Consultants are not allowed to replace personnel during negotiations unless requested by the client. The only grounds for replacing personnel during negotiations should be on the grounds of health or incapacity where the Consultant has provided prior advice and the Client has agreed to a replacement option prior to the negotiations.</i></p> <p><i>In the event that the consultant attempts to change</i></p>	

	<i>personnel during negotiations for reasons that are not acceptable to the client the client shall consider terminating the negotiation process and commencing negotiations with the next best evaluated firm. This however requires prior approval of the DP.</i>	
Commencement Date (Clause 4)	<i>Insert here the expected commencement and completion dates. Do not forget to factor in the time it will take to obtain the DP's no objection when it is required and any other internal approvals that may be required.</i>	
Date of Arrival (Clause 5)	<i>Arrival in Cambodia</i>	
Maximum Payment (Clause 8)	<i>Insert the maximum for foreign and local payments inclusive of the contingency and any provisional sums that are agreed.</i>	
Facilities and Services Provided by the Government (Clause 6)	<p><i>The assistance and exemptions must be as a minimum those provided for in P the Instructions to Consultants section of the RFP. The client may at this stage consider granting additional assistance to the consultants if the client feels that it can provide some of the reimbursable items more economically than the amount proposed by the consultants, such as vehicles.</i></p> <p><i>When agreeing to provide such assistance the client must be satisfied of its own ability to provide such in a timely fashion otherwise it could delay the implementation of the assignment.</i></p> <p><i>In addition to material assistance there may be additional information such as recent reports etc. which were not available when the RFP was issued that can also now be included.</i></p> <p><i>The assistance and exemptions are to be listed in Appendix E</i></p>	
Payment (Clause 7)	<i>It is important to agree the accounts in the contract and payments should only be made to those accounts. This helps to prevent fraud and ensures that the audit trail is clear. Payments to accounts other than those in the contract can only be made</i>	

	<i>once the contract is amended to reflect the new account name and number.</i>	
Authorized Representative of the Client (Clause 10)	<i>Insert here the authorized representative of the Client (even though the clause is titled representative of the consultant). It is preferable to have the authorized representative as someone who is directly involved with the project. Nominating a very senior individual may delay decision making.</i>	
Authorized Representative of the Consultant Clause 10	<i>Insert the name and address for the purposes of notices. Consultants will normally nominate the senior staff member in charge of the assignment based in their home office. Clients should propose either the project manager or director.</i>	
Country of Incorporation of the Consultant	<i>The consultant is required to warrant here its country of incorporation and those of its partners and sub-contractors, his includes the nationalities of individual consultants that make up the team.</i>	
General Conditions		
Per Diem Allowances (Section 6.03 (i))	<p><i>The per diem allowance for foreign personnel should be calculated for each night spent within Cambodia plus each night spent travelling either to or from Cambodia by the most direct route. It is reasonable for consultants to claim the United Nations Daily Subsistence (DSA) for each night for short term inputs (less than 90 calendar days) or for assignments that call for periodic short term inputs.</i></p> <p><i>In the event that the assignment is of more than 90 calendar days of continuous inputs it is reasonable for the consultant to be paid 100% of the DSA for the first 45 calendar days then a reduced rate of 65% of the DSA then after, the assumption being that this will allow enough time for the consultant to find less expensive longer term accommodation such as an apartment as opposed to a hotel. It is also acceptable to agree a fixed monthly allowance for long term resident personnel for the duration of the assignment irrespective of when they are in the country. Administratively this will make the preparation and checking of invoices simpler and will be fairer to the individual consultant as if they have arranged for long term accommodation they will still be paying</i></p>	

	<p><i>for it even when they are out of the country.</i></p> <p><i>The word Cambodia needs to be inserted into the paragraph.</i></p>	
Travel (Section 6.03 (ii))	<p><i>The cost of air travel should be less than first class, in addition if the travel times are an aggregate of less than 6 hours from the consultants' home airport to arrival in Cambodia the client may insist on economy class airfares. It is also reasonable for consultants to claim an excess baggage allowance equivalent to ten kilograms per trip (20 kg for long term personnel) to cover the transportation of documents and equipment related to the assignment or the personal effects of long term personnel</i></p>	
International Communications (Section 6.03 (iii))	<p><i>This item will be required if the client is unable to provide access to international telephone lines, internet access and facsimile. If the client does undertake to provide these facilities the client must be confident that it will be able to meet the monthly costs of these services which can be considerable.</i></p>	
Special Equipment (Section 6.03 (iv))	<p><i>Most consulting services will not require the provision of specialist equipment, however some will especially those relating to civil works supervision and surveys which will require tools and equipment for measurement etc.</i></p> <p><i>If the client has not made separate provision for office equipment such as PCs, a photocopier, office furniture etc. these should be listed in Appendix C. It is always preferable for the client to provide this type of general office equipment as the client has a vested interest in keeping the costs low.</i></p>	
Services and Facilities Not Provided by the Government (Section 6.03 (v))	<p><i>There is no need to amend this clause. It is a recognition that if the client does not provide the services and facilities listed in Appendix E the consultant will purchase the services and facilities themselves and will claim reimbursement through the contract</i></p>	
Printing, etc (Section 6.03 (vi))	<p><i>If the client is providing comprehensive administrative support including access to photocopying facilities etc. it is probable that there</i></p>	

	<i>will be no additional costs for the consultants to claim.</i>	
Other Allowances & Provisional Sums (Section 6.03 (vii))	<i>This clause will cover any provisional sums plus the contingency that will be listed in the Appendices</i>	
Any Other Eligible Reimbursable Items (Section 6.03 (viii))	<i>This clause remains unchanged and there is no need to insert any details in a corresponding appendix. It simply means that other items can be agreed at a latter date to be included in the contract.</i>	
Out of Pocket Expenses (Section 6.04)	<i>A lump sum amount of between \$50and \$200 dollars per round trip to cover airport taxis, departure tax, and medical and visa costs may also be included. This should be paid on a lump sum basis, i.e. receipts for the individual items will not be required. This is to cut down on administrative costs.</i>	
Payments for Time Based Contracts (Section 6.05)	<i>Time based contracts should normally be monthly, however the client and consultant may wish to agree a different frequency. This monthly report is required to indicate to the client the consultants' activities under the contract and to highlight any issues that need to be brought to the client's attention.</i>	
Advance Payment	<p><i>The advance payment amount is based upon a percentage of the contracts value of between 5% and 15%. The amount of the advance payment should be a reflection of the costs (but not fees) that will be incurred by the consultant mobilizing its personnel and up to the date of the first expected billing. The advance is expected to cover airfares, the individual consultant's DSA, equipment, software costs and other reimbursable items for this period. During negotiations the actual amount should be agreed and fixed. It should be off-set in equal amounts against the first three to six monthly payments claimed by the consultants.</i></p> <p><i>The time period for making the payment from giving the notice to proceed should be one week longer than that given to the consultants under Clause 4 Commencement Date of the Agreement, i.e. 14</i></p>	

	<i>calendar days plus 7.</i>	
Currency for Payment of Fees	<i>Insert here the currency for fees (remuneration).</i>	
Government	<i>Insert "of Cambodia)</i>	
Notification of actions, claims, etc	<i>The period for notification for actions, claims, losses or damages should be 3 months</i>	
Gross Fees	<i>Insert the amount of gross fees contained in the entire contract or the total contract value.</i>	
Transfer of Equipment to Government (Section 9.03)	<i>Insert Cambodia</i>	
Tax Exemption (Section 12.02)	<i>Insert Cambodia</i>	
Tax Exemption Section 12.02 (a) (i)	<i>The status of the tax exemption should be checked with MEF/DIC prior to issuing the RFP Use the standard provision for reimbursement of actual taxes, if any, paid by the Consultant. A contingency provision for the estimated taxes which may be payable should be included in the contract. Payments based on reimbursement of actual tax paid and supporting documents required must also be specified.</i>	
Permits and Licenses Section 12.02	<i>If the profession of the consultants usually requires the issue of a permit or license insert the name of the profession, i.e. engineer, architect, certified public accountant etc. Also insert Cambodia</i>	
Country of Work Relating to Minimum Operating Standards	<i>Insert Cambodia</i>	
Settlement of Disputes, Place of Arbitration	<i>Insert the name of a third country that is not Cambodia and not the country of the consultants. Consider Thailand and Singapore as both have well developed transport and communication links.</i>	
Prevention of Consultants	<i>Insert Cambodia. This exclusion should only apply to full time consulting team members. If the</i>	

from Accepting Other Work	<i>consultants make a reasonable case for exempting a part time individual team member from this it should be considered and guidance from the MEF/DIC and DP sought prior to exempting an individual.</i>	
Lump Sum Contracts		
Lump Sum Contracts (Section 21)	<i>Unlike the contract form for complex time based assignments, lump sum contracts do not divide payments into remuneration (fees) and reimbursable components. They simply provide for a lump sum payment upon the clients acceptance of each deliverable described under reports. Note that the value of a lump sum contract may not be modified after its signature unless there is a substantial change in the scope of services of the contract.</i>	
	<i>In lump sum type contracts it is essential that the reports, their frequency and content are accurately described to the satisfaction of both parties as these reports form the contractual deliverables from the consultants'. A comprehensive list should be discussed and agreed and then inserted into Appendix C</i>	
	<i>When negotiating the amount of each payment the percentage amount should approximately correspond to the consultants' level of effort and costs less ten percent (which will form part of the final payment). Keep the amounts simple if possible, i.e. to the nearest five or ten percent. Also given that lump sum contracts are supposed to be for straight forward assignments try to keep the administration simple in limiting the number of payments, ideally no more than 10.</i>	
	<i>The reimbursable items usually included as separate items in a time based contract may, if the client and consultants agree, be included in the lump sum. This has the benefit of cutting down on the administrative costs for both the client and consultant. However if the items are of significant value, or quality is important issue the reimbursable items should remain separate so that the consultants do not try to increase their profits by under funding items that may be important to the delivery of the assignment.</i>	

Annex V b

Contract for Individual Consulting Services

Royal Government of Cambodia

[Insert Name of the Project]

- *[Insert name of the assignment]*

Contract for Individual Consulting Services

Contract No [insert contract reference]

Insert Funding Agency's Reference

CONTRACT

THIS CONTRACT ("Contract") is entered into this _____ day of _____ 200_ *[insert starting date of assignment]*, by and between _____ *[Insert full name of client organization]* ("the Client") having its principal place of business at _____ *[insert Client's address]*, and _____ *[insert name of consultant]* ("the Consultant") having its principal office located at _____ *[insert full address of consultant]*

WHEREAS, the Client wishes to have the Consultant perform the services hereinafter referred to, and

WHEREAS, the Consultant is willing to perform these services,

NOW THEREFORE THE PARTIES hereby agree as follows:

- 1. Services** *The Consultant shall perform the services specified in Annex A, "Terms of Reference and Scope of Services," which is made an integral part of this Contract ("the Services").*
- 2. Term** *The Consultant shall perform the Services during the period of [Insert period of assignment] commencing from ____*

[insert start date of the assignment] or any other period as may be subsequently agreed by the parties in writing.

3. Payment

A. Ceiling

For Services rendered pursuant to Annex A , the Client shall pay the Consultant an amount not to exceed _____[insert ceiling amount and currency]. This amount has been established based on the understanding that it includes all of the Consultant's costs and profits but excludes any local tax obligation that may be imposed on the Consultant.

Government warrants that, under this contract, the Consultant shall be exempt from any local taxes, duties, levies, and other impositions, under the application law, on the consultant. Should this not be the case, the Government shall pay on behalf of the Consultant such taxes and duties.

B. Schedule of Payments for Remuneration and Per-diem *[In case payment is made on monthly lump sum basis or lump sum based on outputs, the payment schedule will need to be amended]*

(i) The schedule of payments is specified below:

Insert here the payments schedule, which will normally be percentage amounts on a lump sum basis. For lump sum contract, payment must be linked to deliverables defined in order to ensure the achievement of required deliveries

or

In case payments for remuneration and per diem are combined and are to be paid on a monthly lump sum basis, state the monthly amount

or

For time based contract, payment will be made at fixed intervals (normally monthly basis) and some outputs can

also be expected and defined in the TOR. State the daily rate of remuneration and per diem.

Total _____ *[insert amount]*

C. The reimbursable items once agreed can either be shown separately in the following section.

(i) Transportation in country

- *A flat daily or monthly allowance for transportation within Phnom Penh*
- *For outside Phnom Penh, transportation for official business will be provided by the Client or will be reimbursed at actual cost.*

(ii) Air travel

- *normal and customary expenditures for official travel will be reimbursed at the cost of economy class travel and will need to be authorized by the Client's coordinator;*

(iii) List other expenditure as applicable

(iv) The above reimbursable should be not exceed the agreed amount below:

- *Airfares _____ [insert lump sum amount or on actual basis]*
- *Contingencies _____ [insert amount, not normally more than 5% of the contract value]*

(v) The total of remuneration and reimbursable should not exceed the sum of _____ *[insert total amount of remuneration plus reimbursables, which should be the same as the ceiling contract amount in Section A above.]*

D. Payment Conditions

Payment shall be made in _____[insert currency], no later than 30 calendar days following submission by the Consultant of invoices in duplicate to the Coordinator designated in paragraph

E. Bank Account.

Account Name _____[insert name]

Name of Bank: _____

[insert full name and address on the consultant's bank]

Account Number: _____*[insert the consultant's bank account number]*

4. Leave (for assignment of one year and above)

The consultant shall be entitled to annual leave at the rate of 22 working calendar days per year or one calendar month equal to 30 calendar days.

The Consultant is entitled to sick leave at the rate of no more than 4 working days for every full period of 3 months of services performed. The Consultant shall furnish the Client with medical or other evidence that the Consultant is unable to perform the services. When sick leave is not used within each 3 months period of service, the accumulation of unused sick leave days will not be allowed.

[delete in case of a lump-sum contract where payments are made for specific outputs/deliverables]

5. Project Administration

A. Coordinator.

The Client designates _____*[insert the name of the client's coordinator]* as Client's Coordinator; the Coordinator will be responsible for the coordination of activities under this Contract, for acceptance and

approval of the reports and of other deliverables by the Client and for receiving and approving invoices for the payment.

B. Time Sheet.

During the course of their work under this Contract, including field work, the Consultant's employees providing services under this Contract may be required to complete timesheets or any other document used to identify time spent as instructed by the Project Coordinator. *[remove for a lump sum contract]*

C. Government Contribution.

Insert here the facilities that will be provided to the consultant. This should normally be office space with air conditioning, administrative equipment (computer, printer, photocopier, fax machine, email and internet connection) and office supplies. *[not always required, particularly under a lump-sum contract]*

- 6. Termination** The Client may terminate the Contract by giving the Consultant not less than thirty (30) calendar days written notice Consultant after the occurrence of any of the events specified in paragraphs (a) through (c) of this Clause:
- (a) If the Consultant does not remedy a failure in the performance of its obligations under the Contract within seven (7) working days after being notified, or within any further period as the Client may have subsequently approved in writing;
 - (b) If the Consultant, in the judgment of the Client or the DP, has engaged in corrupt, fraudulent, collusive, coercive, or obstructive practices (as defined in the prevailing DP or Government's sanctions procedures) in competing for or in performing the Contract.
 - (c) If the Client, in its sole discretion and for any reason

whatsoever, decides to terminate this Contract.

The Consultant may terminate the Contract by giving the Client not less than thirty (30) calendar days written notice if there are circumstances beyond the Consultant's reasonable control which makes it impossible for the Consultant to carry out the obligations under the Contract. Such reasons must be substantiated by the Consultant. Upon the Client's confirmation in writing or failure of the Client to respond to such notice within 30 calendar days from receipt of the Consultant's written notice, the Consultant shall be released from the obligations under the Contract.

Upon termination of the Contract or giving notice thereof, the Consultant shall take immediate steps to bring the Services to a close in a prompt and orderly manner and to reduce the expenditures to a minimum.

- 7. Performance Standards** The Consultant undertakes to perform the Services with the highest standards of professional and ethical competence and integrity.

The Consultant has understood and signed the statement on integrity which is attached as Annex B.

- 8. Inspections and Auditing** The Consultant shall permit DP or Government and/or persons or auditors appointed by the DP or Government to inspect and/or audit his/her accounts and records and other documents relating to the submission of the Proposal to provide the Services and performance of the Contract. Any failure to comply with this obligation may constitute a prohibited practice subject to contract termination and/or the imposition of sanctions by the DP or/and Government (including without limitation a determination of ineligibility) in accordance with prevailing DP or Government's sanctions procedures.

- 9. Confidentiality** The Consultants shall not, during the term of this Contract and within two years after its expiration, disclose any proprietary

or confidential information relating to the Services, this Contract or the Client's business or operations without the prior written consent of the Client.

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| 10. Ownership of Material | Any studies reports or other material, graphic, software or otherwise, prepared by the Consultant for the Client under the Contract shall belong to and remain the property of the Client. The Consultant may retain a copy of such documents and software. |
| 11. Consultant Not to be Engaged in Certain Activities | The Consultant agrees that, during the term of this Contract and after its termination, the Consultant and any entity affiliated with the Consultant, shall be disqualified from providing goods, works or services (other than the Services and any continuation thereof) for any project resulting from or closely related to the Services. |
| 12. Insurance | The Consultant will be responsible for taking out any appropriate insurance coverage. |
| 13. Assignment | The Consultant shall not assign this Contract or sub-contract any portion of it. |
| 14. Law Governing Contract and Language | The Contract shall be governed by the laws of the Kingdom of Cambodia, and the language of the Contract shall be English. |
| 15. Dispute Resolution | Any dispute arising out of the Contract, which cannot be amicably settled between the parties, shall be referred to adjudication/arbitration in accordance with the laws of the Kingdom of Cambodia. |

FOR THE CLIENT

FOR THE CONSULTANT

Name and Title Name of Consultant

Annex A: Terms of Reference and Scope of Services

Annex B: Statement of Ethical Conduct

I the undersigned confirm in the preparation of my bid that:

1. Neither I, nor any of my employees, associates, agents, shareholders, consultants, partners or their relatives or associates have any relationship that could be regarded as a conflict of interest as set out in the bidding document.
2. Should I become aware of the potential for such a conflict will report it immediately to the procuring organization.
3. That neither I, nor any of my employees, associates, agents, shareholders, partners consultants or their relatives or associates have entered into corrupt, fraudulent, coercive or collusive practices in respect of my bid or proposal.
4. I understand my obligation to allow the Government or the Development Partner to inspect all records relating to the preparation of my bid and any contract that may result from such irrespective of if I am awarded a contract or not.
5. That no payments in connection with this procurement exercise have been made by me, my associates, agents, shareholders, partners or their relatives or associates to any of the staff, associates, consultants, employees or relatives of such who are involved with the procurement process on behalf of the purchaser, client or employer.
6. I understand that if I am found to be in breach of this declaration I will be ineligible to be considered for any contracts funded by the Development Partner for a period to be determined by them.

Authorized Signature: _____

Name and Title of Signatory _____

Address: _____

Phone Number _____

Fax Number, if any _____

