

Bid and Contract Documents for Procurement of Goods

Key for Document Completion		
Version July 2003		
<i>These symbols</i>	=	<i>This Action</i>
[]		Information to be filled in by Procuring Organisation

Table of Contents

	Page
SECTION 1 -- INVITATION TO BID	1
SECTION 2 -- INSTRUCTIONS TO BIDDERS	2
ITB 1. Introduction	2
ITB 2. Contracting Authority and Documentation	2
ITB 3. Subject	2
ITB 4. Place of Destination/Delivery	3
ITB 5. Submission of Bids	3
ITB 6. Applicable Conditions	3
ITB 7. Bid Documents	4
ITB 8. Division into Lots	4
ITB 9. Eligibility	4
ITB 10. Conflict of Interest	5
ITB 11. Bid Form	5
ITB 12. Language	5
ITB 13. Clarification	5
ITB 14. Amendments of Bid Documents	6
ITB 15. Technical Specifications	6
ITB 16. Alternative Solutions	6
ITB 17. Price	7
ITB 18. Payments	7
ITB 19. Bid Security	7
ITB 20. Evaluation Criteria	7
ITB 21. Contacting the Procuring Organisation	9
ITB 22. Evaluation Currency	9
ITB 23. Sealing and Marking of Envelopes	9
ITB 24. Signing of Bids	10
ITB 25. Joint Bids	10
ITB 26. Computation of Time Limits	10
ITB 27. Withdrawal and Amendments	11
ITB 28. Opening Session	11
ITB 29. Explanations and Correction of Arithmetical Errors and Minor Informalities	11
ITB 30. Bid Acceptance	11
ITB 31. Award of Contracts	12
ITB 32. Subcontracting With Small And Medium Enterprises (SMEs)	12
ITB 33. Evaluation for Award	13
BID DATA SHEET	15
SCHEDULE OF REQUIREMENTS	18
COMBINED TECHNICAL SPECIFICATIONS AND BID COMPLIANCE	19
Terms of Reference GENERAL CONDITIONS	20
GENERAL CONDITIONS	21
GCC-1. Definitions	21
GCC-2. Sub-contracting	21
GCC-3. Origin	21
GCC-4. Technical Specifications and Terms of Reference	22
GCC-5. Conflict of Interest	22
GCC-6. Performance Security	22
GCC-7. Spare Parts	22
GCC-8. Inspections and Tests	23
GCC-9. Delivery Conditions	23
GCC-10. Packaging	23

GCC-11.	Delivery Period.....	24
GCC-12.	Delayed Delivery.....	24
GCC-13.	Acceptance Conditions.....	24
GCC-14.	Provisional Acceptance.....	24
GCC-15.	Final Acceptance.....	25
GCC-16.	Warranty Obligations.....	25
GCC-17.	Training, After-Sales and Maintenance Services.....	26
GCC-18.	Payments.....	26
GCC-19.	Spreading of Payments.....	26
GCC-20.	Payment Procedure.....	26
GCC-21.	Change Orders.....	27
GCC-22.	General Obligations of the Supplier.....	27
GCC-23.	Price Adjustment.....	27
GCC-24.	Assignments.....	27
GCC-25.	Taxation.....	28
GCC-26.	Liability.....	28
GCC-27.	Force Majeure.....	28
GCC-28.	Modifications.....	29
GCC-29.	Termination by the Procuring Organisation.....	29
GCC-30.	Resolution of Disputes/Arbitration.....	29
GCC-31.	Notices.....	30
GCC-32.	Application of Special Conditions of Contract.....	30
SPECIAL CONDITIONS OF CONTRACT.....		31
SCC-1.	Definitions.....	31
SCC-2.	Performance Security (GCC-6).....	31
SCC-3.	Spare Parts (GCC 7).....	31
SCC-4.	Inspections and Tests (GCC-8).....	31
SCC-5.	Delivery Conditions (GCC-9).....	31
SCC-6.	Insurance (GCC 9).....	32
SCC-7.	Warranty (GCC 16).....	32
SCC-8.	Training, After-Sales and Maintenance Services (GCC 17).....	32
SCC-9.	Payments (GCC 18).....	33
SCC-10.	Price Adjustment (GCC 23).....	33
SCC-11.	Notices (GCC 31).....	33
SCC-12.	Guarantee (GCC 19).....	33
SCC-13.	Subcontracting With Small And Medium Enterprises (SMEs).....	33
Attachment I to the Special Conditions.....		35
BID FORM.....		36
PRICE SCHEDULE.....		38
FORM OF BID SECURITY.....		40
FORM OF PERFORMANCE SECURITY.....		41
FORM OF SECURITY FOR ADVANCE PAYMENT.....		42
NOTIFICATION OF AWARD.....		44
CONTRACT FORM.....		45
MANUFACTURER'S AUTHORISATION FORM.....		48

SECTION 1 -- INVITATION TO BID

Date: _____ [insert date of Invitation to Bid] Reference No.: _____ [insert reference number]

Project Name: _____ [insert project name]

Dear Sir/Madam:

You are hereby invited to be a Bidder in the Tender described herein. The Gambia Public Procurement Act defines a Tender as a type of Bid and anyone submitting a Tender or other Bid is known as a Bidder. Under the Tender process, there will be a public opening of all bids received at the place and at the time stated in paragraph 8 below.

1. The _____ [insert name of the Procuring Organisation] has budgeted funding for the procurement of [give general description of goods/services, including nature and quantity] _____ and intends to place a Contract for the supply and delivery of these goods/services [use appropriate term].
2. The goods/services [use appropriate term] to be supplied shall be delivered at _____ [indicate the place of delivery of the goods or the location for the performance of the services, as applicable] and the required time for the supply of the goods/performance of the services [delete as appropriate] is _____ [indicate required time].
3. The _____ [insert name of the Procuring Organisation] now invites sealed Bids from eligible Bidders for the supply/installation/commissioning _____ [use appropriate term] of _____ [insert brief details of the goods or services].
4. The deadline for submission of inquiries and for requests for clarifications is _____ [indicate deadline].
[To be inserted only when a pre-bid conference is foreseen] A pre-bid conference will take place at _____ [indicate location] on _____ [indicate date].
5. Interested eligible Bidders may obtain further information from and inspect the Bid documents at the office of _____ [insert name, address, telephone, fax and telex numbers of the Procuring Organisation].
6. A complete set of Bid documents in English language may be purchased by interested Bidders within _____ [indicate deadline for purchase] on the submission of a written application to the above and upon payment of a non-refundable fee of _____ [insert amount].
7. Bids must be delivered to [insert address] _____ on or before _____ [insert time] Banjul time on (day/month/year format) _____ [insert date] and must be accompanied by a security of _____ [insert amount or percentage of bid amount].
8. Bids will be opened in the presence of Bidders' representatives who choose to attend at _____ [insert time and date (day/month/year)] at [insert address] _____.

SECTION 2 -- INSTRUCTIONS TO BIDDERS

ITB 1. Introduction

- 1.1 By submitting his Bid, the Bidder accepts in full all the terms and conditions of these Bid Documents as the sole basis of this Bid procedure, waiving his own conditions of sale. Any Clause to the contrary shall be disregarded or entail the rejection of the Bid.
- 1.2 Bidders are expected to carefully examine and respect all instructions, forms, terms and specifications contained in these Bid Documents. In the event of any inconsistency between or within any parts of the Bid Documents and the Contract Documents, Bidders should seek clarification from the Procuring Organisation. The decision of the Procuring Organisation on any inconsistency shall be final and absolute.
- 1.3 Failure to furnish on time all the required information and documentation or the submission of Bids not substantially responsive in every respect to the Bid Documents is at the risk of Bidders and may result in the rejection of the Bid.

ITB 2. Contracting Authority and Documentation

- 2.1 The Procuring Organisation is (Insert Name of Procuring Organisation).
- 2.2 The following Bid documents are issued by the Procuring Organisation to enable completion of the Bid:
 - a) Invitation to Bid;
 - b) Instructions to Bidders;
 - c) Bid Data Sheet;
 - d) Schedule of Requirements;
 - e) Technical Specification and Compliance Sheets/Terms of Reference (provided also for Services);
 - f) General Conditions of Contract;
 - g) Special Conditions of Contract;
 - h) Bid Form and Price Schedule;
 - i) Form of Bid Security;
 - j) Form of Performance Security;
 - k) Form of Security for Advance Payment;
 - l) Notification of Award;
 - m) Contract Form
 - n) Manufacturer's Authorisation Form.

ITB 3. Subject

- 3.1 The detailed supply requirements for the goods/services [*use appropriate term*] are stipulated in Item 6 of the Bid Data Sheet.
- 3.2 The goods/services [*use appropriate term*] Bided must fully conform to the detailed description set out in the Technical Specification and Compliance Sheets.
- 3.3 Bids must be accompanied with descriptive literature, instructions, manuals, catalogues, brochures or pamphlets for all items offered. These shall be in the English language. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the English language, in which case, for purposes of interpretation of the Bid, the translation shall govern.
- 3.4 This Bid also provides for the following:
 - 3.4.1 Manufacturer's recommended spare parts as stipulated in Item 17B of the Bid Data Sheet.
 - 3.4.2 All accessories and consumables required for operation in accordance with the Supplier's instructions during the period stipulated in Item 17B of the Bid Data Sheet.

3.4.3 After-sales services including training, maintenance and repairs as stipulated in Items 17C, 17D, 17I and 17K of the Bid Data Sheet.

[optional]

3.5 Bidders are required to provide samples, in the following numbers and of the following type:

_____.

[optional]

3.6 Samples of the goods to be supplied are available for Bidders to view at the following location: _____

ITB 4. Place of Destination/Delivery

- 4.1 The goods must be shipped "FOB Destination" unless another term is stated in Item 17F of the Bid Data Sheet to the place of destination defined in Item 17G of the Bid Data Sheet and made ready for acceptance there.
- 4.2 If the goods cannot be delivered within the period, before the date, or between/during the calendar dates/months stipulated in Item 17H of the Bid Data Sheet or the Bidder must state his best delivery schedule. No credit will be given for earlier delivery.
- 4.3 Packing must be as per accepted international standards for air/surface transportation taking into account the climatic conditions prevailing in The Gambia at the time of delivery.
- 4.4 A Manufacturer's Inspection Certificate or Works Test Certificate is required for all items. The Bid must confirm the inspection requirements will be met.

ITB 5. Submission of Bids

Bids will only be accepted if they comply with the following conditions:

- 5.1 Bidders may send their Bids by registered mail, or deliver by hand, or by any other method with proof of receipt, (including delivery by fax) [*the statement in round brackets is optional*], to arrive at the latest by the date and time stipulated at Item 10 of the Bid Data Sheet. The Procuring Organisation shall not be held liable for proof of arrival in case any other method of transmission is used.
- 5.2 Bids received at a later date or time than specified shall be rejected and returned to the Bidder unopened.
- 5.3 The Procuring Organisation may, at its absolute discretion and before the expiry of the deadline for Bid submission, extend the deadline for the submission of Bids. Any such extension shall be made public or notified to the Bidders who purchased the documents in the same way as the Invitation to Bid.

ITB 6. Applicable Conditions

- 6.1 Except in cases of lots or alternative solutions, only one Bid may be submitted by each Bidder. No Bidder may participate in the Bid of another for the same contract in any capacity whatsoever.
- 6.2 Participation by a Bidder in more than one Bid, whether in his own right or in association or joint venture with (an) other Bidder(s), shall result in the exclusion from the Bid of all Bids in which the Bidder is involved.
- 6.3 Bidders shall remain bound by their Bids for the period specified in Item 20 of the Bid Data Sheet. Any Bid valid for a shorter period shall be rejected.
- 6.4 In exceptional circumstances, prior to the expiry of the original Bid validity period, the Procuring Organisation may request the Bidders for a specific extension in the period of validity. Bidders agreeing to the request will not be permitted to modify their Bids. A Bidder may refuse the request without forfeiture of his Bid security.

- 6.5 The Procuring Organisation is not bound either to accept the lowest or any Bid or to award any contract, and reserves the right to annul the Bidding process at any time without assigning any reason and without incurring any liability to the affected Bidders.
- 6.6 The successful Bidder shall remain bound by his Bid for a further period of 30 days following the receipt of the communication notifying him of contract award.

ITB 7. Bid Documents

The Bid prepared and submitted by the Bidder shall, in accordance with the requirements stated in these Instructions to Bidders, comprise:

- 7.1 The Bid Form;
- 7.2 A Bid security.
- 7.3 A detailed description of the goods or services Bided according to the specifications set out herein and, in particular in their Technical Specifications, containing all required information by which the goods or services may be evaluated (e.g. technical characteristics, operational capacities, consumption, maintenance cost, useful life, chemical composition, environmental effect, etc.) together with manuals or instructions for use or any other relevant information and documentation, delivery/installation schedules, etc.(Technical Proposal).
- 7.4 All information required in Item 17 of the Bid Data Sheet in the sub-Clauses checked as included in the Bid.
- 7.5 A statement of the commercial warranty for quality and performance of the goods or services supplied, as required by Clause 5 of the Contract.
- 7.6 An originally signed copy of the conditions of contract evidencing acceptance of the conditions of contract.

ITB 8. Division into Lots

- 8.1 If the goods that are the subject of the invitation are not divided into lots, the quantity or quantities required shall be indivisible. The Bidder therefore must offer the whole of the quantity or quantities indicated. Bids for part of the quantities required shall not be taken into consideration.
- 8.2 If the goods are divided into lots, the quantities indicated for each individual lot shall be indivisible. The Bidder therefore shall offer the whole of the quantity indicated for each lot. Bids for part of the quantities required shall not be taken into consideration.
- 8.3 If the goods are divided into lots the Bidder may Bid for one or more lots or for all the lots. In this case, evaluation of Bids also will be done on a lot-by-lot basis.
- 8.4 The Bidder shall submit a separate quotation for each lot offered.
- 8.5 A Bidder may include in his Bid the overall rebate he would grant in the event of amalgamation of some or all of the lots for which he has submitted individual Bids.

ITB 9. Eligibility

- 9.1 Participation in the invitation to Bid and the award of contracts shall be open on equal terms to all nationals and legal entities, constituted under and governed by civil, commercial or public law, formed in accordance with the law of their country of origin, regardless of their nationality.
- 9.2 Bidders shall not be eligible for the award of contracts and the Procuring Organisation may exclude them from participation in the invitation to Bid, without compensation, as of right and without recourse to prior legal proceedings where they do not meet the Bid qualification criteria. Bidders therefore must submit the declarations and certifications as set forth in the Bid Form as evidence of qualification and the Bid security called for in Item 19 of the Bid Data Sheet.

- 9.3 Failure to provide the certification required in sub-Clause 9.2 above shall result in the Bidder's Bid being rejected as non-responsive.
- 9.4 For the purposes of sub-Clause 9.3 above, the Procuring Organisation reserves the right to request from the Bidder any document evidencing any of the statements made in the Bid Form.
- 9.5 Bidders who, knowingly and intentionally supply false information in order to appear responsive to Bid documents shall be rejected and be subject to debarment by the Government of The Gambia.
- 9.6 Bidders who, knowingly and intentionally confer or offer to confer any gift, gratuity, favour, or advantage, present or future, upon any employee or representative of the Procuring Organisation shall be rejected and subject to debarment by the Government of The Gambia.

ITB 10. Conflict of Interest

- 10.1 The Bidder certifies, to the best of its knowledge and belief that it is not aware of any information bearing on the existence of any potential organisational conflict of interest. If the Bidder cannot so certify, it shall provide a disclosure statement in its proposal that describes all relevant information concerning any past, present or planned interests bearing on whether it may have a potential organisational conflict of interest.
- 10.2 For purposes of this Clause, "organisational conflict of interest" occurs when Bidders are 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 Procuring Organisation to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the goods or services to be purchased.
- 10.3 Government-owned enterprises in The Gambia may participate only if they are legally and financially autonomous and operate under commercial law.
- 10.4 Bidders must provide full, accurate and complete information as required by sub-Clause 10.1. The penalty for making false statements in Bids will include the exclusion from further participation in the invitation to Bid, without compensation, as of right and without recourse to prior legal proceedings, and other such penalties prescribed in the regulations and law.

ITB 11. Bid Form

- 11.1 The Bidder shall complete the Bid Form and the appropriate Price Schedule furnished in the Bid documents.
- 11.2 The Bidder shall indicate the goods/services [*use appropriate term*] to be supplied in the Bid Form and the appropriate Price Schedule with a brief description of the goods/services [*use appropriate term*], their country of origin, and prices.

ITB 12. Language

The Bid shall be drawn up in the English language.

ITB 13. Clarification

- 13.1 A Bidder requiring any clarification of the Bid documents may notify the Procuring Organisation in writing, including by fax, telex or cable, at the address specified at Item 2 of the Bid Data Sheet. The Procuring Organisation will respond in writing (via fax where appropriate) to any such request for clarification that it received no less than _____ [*enter number of days*] days prior to the deadline for submission of Bids stipulated in Item 10 of the Bid Data Sheet. Written copies of the Procuring Organisation's response (including an explanation of the query but without identifying the source of the enquiry) will be sent to all Bidders who have received the Bid documents.
- 13.2 If a clarification meeting is to be held, it will take place at the address, on the date and at the time detailed in separate notification provided as set forth in Item 13 of the Bid Data Sheet. All costs of Bidders

attending the clarification meeting are the responsibility of the Bidders. Failure to attend the clarification meeting shall not be a basis for rejection of Bids.

ITB 14. Amendments of Bid Documents

- 14.1 At any time prior to the deadline for submission of Bids, the Procuring Organisation, for any reason, whether at its own initiative or in response to a clarification requested by a Bidder, may modify the Bid documents by amendment.
- 14.2 All the Bidders that have received the Bid documents will be notified of the amendment in writing or by cable. Bidders will be required to acknowledge within their Bid the receipt of all clarifications received to confirm their inclusion of the clarification provisions in the Bid submitted.
- 14.3 In order to allow Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Procuring Organisation, at its discretion, may extend the deadline for the submission of Bids.

ITB 15. Technical Specifications

The goods or services must in all respects satisfy the requirements laid down in the Technical Specification and Compliance Sheet of the Bid Documents.

ITB 16. Alternative Solutions

- 16.1 Unless otherwise provided for in Item 17 of the Bid Data Sheet, Bidders may submit a Bid based on an alternative solution on the condition that they also submit a Bid that is wholly responsive to the original Bid requirements. Any goods may be proposed which are functionally equivalent or better and adapted to local conditions of use in the place(s) of destination. Item 17 of the Bid Data Sheet specifies the limitations, design criteria and other requirements applicable to alternative solutions.
- 16.2 Alternative solutions may not deviate from the requirements of these Instructions to Bidders. A alternative solution Bid shall only be evaluated if the Bidder submitting the lowest evaluated Bid submits it.
- 16.3 Item 17 of the Bid Data Sheet states whether the Bidder submitting a alternative solution is to be responsible for the design, if any, of a alternative solution and, if this is the case, specifies procedures, in particular for checking, revision and approval.
- 16.4 The submission of any alternative solution shall comprise:
 - 16.4.1 an individual Bid for the alternative solution.
 - 16.4.2 a demonstration of the benefit of the alternative solution over the conforming solution, including quantifiable justifications of any economic advantage.
 - 16.4.3 a draft of the amendments to the technical provisions of the Technical Specifications necessitated by the alternative solution.
 - 16.4.4 those drawings and specifications provided for in the conforming solution that are not affected by the alternative solution.
 - 16.4.5 the drawings and specifications particular to the alternative solution.
 - 16.4.6 a technical note on the basic concept of the alternative solution and, where appropriate, drawings and calculations.
 - 16.4.7 for lump sum contracts, an itemised breakdown of the overall price as modified by the alternative solution.

ITB 17. Price

- 17.1 Prices may be expressed in the currency of the Government of The Gambia or any other major trading currency.
- 17.2 All prices quoted must be fixed and firm and not subject to revision.
- 17.3 The Bidder shall indicate on the appropriate Price Schedule the unit prices (where applicable) and total Bid price of goods and any incidental services it proposes to supply under the contract, with exclusion of all customs and other duties he is subject to.

ITB 18. Payments

Payments shall be made in accordance with the provisions of Clause 18 and 19 of the Contract.

ITB 19. Bid Security

- 19.1 A Bid Security in the amount stated in Item 19 of the Bid Data Sheet and in the form contained in the Sample Forms shall be provided by Bidders.
- 19.2 The Bidder shall forfeit the Bid Security in favour of the Procuring Organisation if the Bidder:
- 19.2.1 withdraws his Bid after Bids have been opened, or
 - 19.2.2 when requested to conclude a contract refuses to do so, or
 - 19.2.3 is excluded pursuant to Clause 9.5 or 9.6 hereof, or
- 19.3 The Bid Securities of Bidders whose Bids are not accepted shall be released not later than 30 days after the expiry of the Bid validity period, as extended where appropriate.
- 19.4 The Bid Security of the successful Bidder shall be discharged when the Bidder has signed the contract and provided any further security required under the contract.

ITB 20. Evaluation Criteria

- 20.1 The Procuring Organisation shall evaluate and compare the Bids that have been accepted in order to ascertain the successful Bid, in accordance with the procedures and criteria set forth in the subsequent provisions.
- 20.2 The successful Bid shall be:
- 20.2.1 The Bid with the lowest Bid price, (i) subject to any margin of preference applied pursuant to Clause 20.3 herein and (ii) with exclusion of all customs and other duties he is subject to; or
 - 20.2.2 If the Procuring Organisation has so stipulated in the Bid documents, the lowest evaluated Bid determined on the basis of criteria specified in the Bid documents, which criteria shall, to the extent practicable, be objective and quantifiable, and shall be given a relative weight in the evaluation procedure or be expressed in monetary terms wherever practicable.
- 20.3 In determining the lowest evaluated Bid in accordance with Clause 20.2.2 herein, the Procuring Organisation may consider only the following:
- (a) the Bid price, with exclusion of all customs and other duties and subject to any margin of preference applied pursuant to Clause 20.4 herein;
 - (b) Life cycle costs, including the cost of operating, maintaining and repairing the goods or services, the time for delivery of the goods or provision of the services, the functional characteristics of the goods, the terms of payment and of guarantee in respect of the goods or services; and

- (c) The effect that acceptance of a Bid would have on the environment, the extent of local content, including local manufacture, labour and materials, in goods or services being offered by Bidders, the transfer of technology and the development of managerial, scientific and operational skills.

20.4 Preference may be accorded in accordance with Clause 20.4 herein if the Bidder establishes to the satisfaction of the Procuring Organisation that:

- (a) Labour raw material and components from within The Gambia will account for more than 30% of the EX-Works price offered, and
- (b) The production facility in which those goods will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the time of bid submission.

20.4.1 If the Procuring Organisation intends to grant a margin of preference in the evaluation of Bids in Bidding proceedings to Bids offering certain goods manufactured in The Gambia, the bidding documents shall clearly indicate any preference to be granted to domestic manufactured goods and the information required to establish the eligibility of a bid for such preference. The nationality of the manufacturer or supplier is not a condition for such eligibility. The methods and stages set forth hereunder shall be followed in the evaluation and comparison of Bids.

20.4.2 For comparison, responsive Bids shall be classified in one of the following three groups:

- a) Group A: bids offering goods manufactured in The Gambia if the Bidder establishes to the satisfaction of the Procuring Organisation that:
 - i. Labour, raw material and components from within The Gambia will account for more than 30 percent of the EXW price of the product offered, and
 - ii. The production facility in which those goods will be manufactured or assembled has been engaged in manufacturing/assembling such goods at least since the time of bid submission.
- b) Group B: all other Bids offering goods from within The Gambia (does this cover 100% labour, raw materials and components from The Gambia?). This covers bids offering goods not made in The Gambia or goods made in The Gambia but which do not meet the two conditions of Group A – i.e. just 30% or less of Gambia components or facilities not in existence at time of bid)
- c) Group C: Bids offering the goods from abroad and to be directly imported.

20.4.3 The EXW price quoted by a Group A bidder shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported. Similarly, prices quoted by Group B bidders shall include all duties and taxes on components and raw materials. The price quoted by Group A and B bidders shall exclude the sales and similar taxes on the finished product. The price quoted by Group C bidders shall be on CIF or CIP border point or other destination, exclusive of customs duties and other import taxes.

20.4.4 In the first step, all evaluated Bids in each group shall be compared to determine the lowest evaluated bid in each. Such lowest evaluated Bids shall then be compared with each other and if, as a result of this comparison, a Bid from Group A or Group B is the lowest, it shall be selected for the award.

20.4.5 If, as a result of the comparison under paragraph (4) above, the lowest evaluated Bid is a Bid from Group C, all Group C Bids shall be further compared with the lowest evaluated Bid from Group A after adding to the evaluated bid price of the imported goods offered in each Group C bid, for the purpose of this further comparison only, an amount equal to the higher of:

- a) The amount of duties and other related import charges which a non-exempt importer would have to pay for the importation of the goods offered in such Group C Bid; or
- b) 15 percent of the CIF or CIP bid price of such goods if said duties and charges exceed 15 percent of such price.

If the Group A Bid in such further comparison is the lowest, it shall be selected for the award; if not, the lowest evaluated Bid from Group C, as determined from the comparison under paragraph (4), shall be selected.

20.4.6 In the case of single responsibility, supply and installation or turnkey contracts in which a number of discrete items of equipment is grouped into one contract package (and if customs duties are excluded from the bid prices, and the price of imported goods quoted is on a CIF or CIP basis), the preference margin shall not be applied to the whole package, but only to the locally-manufactured equipment within the package. Equipment offered from abroad shall be quoted CIF or CIP and equipment offered locally EXW (free of sales and similar taxes); all other components, such as design, works, installation, and supervision, shall be quoted separately. Bids should not be classified into groups A, B, or C. In the comparison of Bids, only the CIF or CIP price in each Bid of the equipment offered from outside The Gambia shall be increased by the applicable duty and other taxes payable by a non-exempt importer or 15 percent whichever is less. If duties vary from item to item within a package, the appropriate tariff for each piece of equipment shall apply. No preference shall be applied for any associated services or works included in the package.

ITB 21. Contacting the Procuring Organisation

21.1 Subject to Clause 27 and 29 hereof, no Bidder shall initiate any contact with the Procuring Organisation on any matter relating to its Bid, from the time of the Bid opening to the time the contract is awarded.

21.2 Any effort by a Bidder to influence the Procuring Organisation in its decisions on Bid evaluation, Bid comparison, or contract award will result in the rejection of the Bidder's Bid.

ITB 22. Evaluation Currency

The Bids will be evaluated on the basis of their price expressed in the currency of The Gambia. Where Bids are submitted in other currencies they shall be converted to the currency of The Gambia, for the purposes of Bid evaluation only, at the selling rates established by the Central Bank of The Gambia on the date specified for the opening of Bids.

ITB 23. Sealing and Marking of Envelopes

23.1 The Bid, the annexes thereto as stipulated in the Instructions to Bidders and the supporting documents, including the copies mentioned therein, shall be placed in a sealed envelope. If self-adhesive envelopes are used they shall be closed with adhesive tape and the Bidder shall sign over the top of the tape.

23.2 The envelope shall bear only:

23.2.1 The address designated for submission of Bids in Item 8 of the Bid Data Sheet.

23.2.2 The name/title of the invitation to Bid in reply to which the Bid is being submitted and the Bid reference number.

23.2.3 Where appropriate, the numbers of the lots Bided for.

23.2.4 The words "not to be opened before the Bid closing date/time session".

23.3 Within the sealed envelope must be one inner envelope marked in accordance with Clauses 23.2.1 to 23.2.4 hereof containing the Bidder's name and address, the Bid Form, the Bidder's price schedule proposal, and all related documents comprising the Bid.

23.4 Alternative solutions shall be submitted separately and shall be marked with the additional wording "Alternative Solution".

ITB 24. Signing of Bids

24.1 The Bid shall be signed by the Bidder or his duly authorised agent, as required by the Instructions to Bidders. It shall be drawn up in a single original bearing the word "Original". The number of copies to be supplied by the Bidder is stated in Item 7 of the Bid Data Sheet. Copies shall be signed in the same way as the original and shall bear the word "Copy". In the event of any discrepancy between the original and the copies, the original shall govern.

24.2 The original and the copies of the Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person duly authorised to bind the Bidder to the contract. The person signing the Bid shall initial all pages of the Bid, except for unamended printed literature.

24.3 Any interlineations, erasure, or overwriting shall be valid only if they are initialled by the person signing the Bid.

24.4 A Bid submitted by an agent must state the name of the principal on whose behalf he is acting. No agent may represent more than one Bidder. Agents shall attach to the Bid the simple contract or notarial act or deed that empowers them to act on behalf of the principal. A signature to a deed must be certified in accordance with the national law of the country of the principal.

ITB 25. Joint Bids

25.1 If a Bidder is a joint venture or consortium of two or more persons the Bid must be single with the object of securing a single contract. Each person must sign the Bid, and all such persons shall be jointly and severally bound by the Bid and any resulting contract according to the laws of The Gambia. The Bidder shall designate one of such persons to act as a leader with authority to bind the joint venture or consortium. The composition or constitution of the joint venture or consortium shall not be altered at any time from submission of Bid to completion of subsequent contract, if awarded, without the prior consent in writing of the Procuring Organisation. Each member of a joint venture or consortium must comply individually with the qualification requirements stated in Clause 6.2 hereof.

25.2 The Bid may be signed by the representative of the joint venture or consortium only if he has been expressly so authorised in writing by members of the joint venture or consortium, and the authorising contract, notaries act or deed is attached to the Bid. All signatures to the authorising instrument must be certified in accordance with the national laws and regulations of each of the parties comprising the joint venture or the consortium, together with the Powers of Attorney establishing, in writing, that the signatories to the Bid are empowered to enter into commitments on behalf of the members of the joint venture or consortium. Each member of such joint venture or consortium must provide proof of evidence of eligibility as if he, himself, were the Bidder.

ITB 26. Computation of Time Limits

The periods and time limits referred to in these Instructions to Bidders and in other contract documents shall be computed as follows:

26.1 The periods and time limits shall begin to run from the beginning of the day following the date of the act or deed, which serves as the starting point for those periods or time limits.

26.2 Where a period or time limit is stated in days it shall expire at the end of the last day of the period or time limit laid down. Where a period or time limit is fixed in months it shall end on the day having the same number as the day on which it began. In the event of the last month of a period or time limit not having a day with the same number as the date on which it began the period or time limit shall expire at the end of the last day of the month.

26.3 Where the last day of a period or time limit falls on a public or any other general holiday in the State in which the obligation subject to the period or time limit is to be performed, the period or time limit shall be extended until the end of the next working day.

ITB 27. Withdrawal and Amendments

- 27.1 Any Bidder may modify or withdraw his Bid before the deadline for the submission of Bids, provided that written notice of such modification or withdrawal is received by the Procuring Organisation prior to that deadline.
- 27.2 Withdrawals are unconditional and end further participation in the Bidding procedure.
- 27.3 The modification notice shall be prepared, sealed, marked and dispatched as the original Bid. It shall be identified as a modification of the original Bid.

ITB 28. Opening Session

- 28.1 Bids will be opened in public session immediately after the Bid deadline at the date, time and address stipulated at Item 11 of the Bid Data Sheet.
- 28.2 All Bids shall have the names of the Bidders and their total Bid amounts read out.
- 28.3 The Procuring Organisation will prepare minutes of the opening session.

ITB 29. Explanations and Correction of Arithmetical Errors and Minor Informalities

- 29.1 The Procuring Organisation may request Bidders to provide written explanation of any part of their Bids. Such requests shall be for clarification purposes only, and shall neither entitle nor require Bidders to modify their Bids in any way.
- 29.2 Bidders failing to provide written explanation within 7 days of receipt of the Procuring Organisation's request may be excluded from the Bid.
- 29.3 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and the quantity, the unit price shall prevail, and the total price shall be corrected accordingly. If there is a discrepancy between words and figures, the amount in words shall prevail. If the Bidder does not accept such correction of errors his Bid shall be rejected, and his Bid security forfeited.
- 29.4 The Procuring Organisation may waive any minor informality, nonconformity, or irregularity in a Bid which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder.
- 29.5 Prior to the evaluation pursuant to Clause 20, the Procuring Organisation will determine the substantial responsiveness of each Bid to the Bid documents. For purposes of these Clauses, a substantially responsive Bid is one that conforms to all the terms and conditions of the Bid documents without material deviations. Deviations from, or objections or reservations to critical provisions, such as those concerning Bid Security, Applicable Law, and Taxes and Duties, will be deemed to be a material deviation. The Procuring Organisation's determination of a Bid's responsiveness is to be based on the contents of the Bid itself without recourse to extrinsic evidence.
- 29.6 If a Bid is not substantially responsive, it will be rejected by the Procuring Organisation and may not be subsequently made responsive by the Bidder by correction of the non-conformity.

ITB 30. Bid Acceptance

- 30.1 The carrying out of an invitation to Bid shall not oblige the Procuring Organisation to accept any Bid or award any contract.
- 30.2 The Procuring Organisation shall not be liable for any compensation to Bidders whose Bids have not been accepted.

- 30.3 All Bidders shall be informed in writing about the result of their Bid. The Procuring Organisation shall not be obliged to state the reasons for its choice nor enter into any discussion or correspondence with Bidders on the results of the Invitation to Bid.
- 30.4 The Procuring Organisation reserves the right to vary the quantities stipulated at the time of ordering and purchase less or more than the quantities indicated in these Instructions to Bidders. Any limits of such variations are stipulated in Item 17E of the Bid Data Sheet. The unit and overall prices of the Bid shall then be applicable to the quantities ordered within the limits of these variations.

ITB 31. Award of Contracts

- 31.1 The Procuring Organisation shall conclude a contract with the Bidder or Bidders whose Bid(s) have been determined to be the lowest evaluated responsive Bid(s).
- 31.2 The procedure for concluding the contract shall be as follows:
- 31.2.1 The Procuring Organisation shall notify the Bidder in writing before the validity of his Bid expires that his Bid has been accepted. Such notification shall be in the form of the Sample Notification of Award hereof, and shall be accompanied by a contract form in the form of the Sample Contract Form.
- 31.2.2 The notification also shall require that the Bidder provide the Procuring Organisation with the performance security defined in Clause 6 of the General Conditions of Contract within the number of days also specified therein. Failure to provide the performance security within the period specified shall result in cancellation of the contract award and forfeiture of the Bidder's Bid security.
- 31.2.3 The Bidder shall return the acknowledgement copy of the contract form signed by him not later than 15 working days after the notification of award has been dispatched to the successful Bidder.
- 31.2.4 The contract shall become effective when the notice of award is dispatched to the successful Bidder.

ITB 32. Subcontracting With Small And Medium Enterprises (SMEs)

- 32.1 If provided for in Item 17 M of the Bid Data Sheet, the Bidder is invited to support subcontracting opportunities with small and medium enterprises (SME) as provided herein. The Government of The Gambia encourages the development of the national economic base. To support this objective, small and medium enterprises will be encouraged to participate to the maximum extent in competing for public procurement contracts.
- 32.2 *SME* means an entity
- (i) which is legally registered to do business in The Gambia and
 - (ii) which is engaged in active business activities,
 - (iii) which employs residents of The Gambia,
 - (iv) which is in good standing, and
 - (v) which has total annual revenue in the tax year most recently completed prior to the announcement of the procurement of less than [...] dalasis.
- 32.3 *Committed SME subcontract amounts* means an amount equal to
- (i) the value of work performed in-house by an SME who is competing as a prime contractor for the award of a contract, plus
 - (ii) the value of existing contracts between a prime contractor and an SME subcontractor, and any other form of a firm, legally-binding commitment (e.g. letter of intent) between the prime contractor and the SME subcontractor, and which
 - (iii) does not contain any of the following burdensome provisions imposed on the subcontractor:
 - A right of set-off in favour of the prime contractor.
 - Rights given to the prime contractor or his agent with no recourse to independent adjudication in the event of a dispute arising.
 - Payment procedures based on a pay-when-paid system.

- A dispute resolution procedure that does not include dispute resolution procedures such as arbitration or mediation as an alternative to litigation in court.
- Unreasonable retention percentages and periods of retention.
- Conditions that are more onerous than those that exist in the prime contract.

32.4 If the Bidder is awarded a contract on the basis of this provision, the Bidder must demonstrate that at least the evaluated percentage of committed SME subcontracts were in fact awarded and legally effective as a condition for payment of the third instalment under SCC 9 (18.5)

32.5 *Subcontracting Plan means* a general description and value of work to be performed by the prime contractor "in house" plus a description and value of all committed SME subcontracts as defined in this provision. For purposes of evaluation during the contract award adjudication process, the subcontracting plan shall contain for all committed SME subcontracts:

- (i) the name of the subcontractor
- (ii) the objective of the subcontract
- (iii) the duration of the contract
- (iv) the type of commitment (existing or proposed subcontract, and if the latter, a description of how the commitment will be enforced if prime contract is awarded)
- (v) a certification by the prime contractor that no burdensome provisions as described in this provision are or will be part of the subcontract.

32.6 Penalties

Large businesses, which falsely state any material fact to obtain a benefit under this guideline, including the inclusion of the above onerous provisions in subcontracts with SMEs, may be subject to debarment proceedings.

32.7 Incentives

To provide an incentive for SMEs to participate in public contracting, and for large businesses to form strong links with SMEs, contracts with an estimated value equal to or greater than _____ [*indicate threshold*] shall be awarded on the basis of the lowest evaluated Bid or most advantageous proposal, based on a balance of trade-offs between price, quality and the level of prime or subcontracting with SMEs.

ITB 33. Evaluation for Award

33.1 All competitors for the award of a contract estimated at or above _____ [*indicate threshold*] shall prepare and submit a subcontracting plan with their Bid or proposal.

33.2 Prime contractors who are themselves SMEs will be evaluated on the basis of work performed in-house as well as work performed under committed SME subcontracts.

33.3 Large businesses will be evaluated on the basis of work performed under committed SME subcontracts.

33.4 For such contracts, Bids shall be adjudicated using a weighting system based on the following:

1. Price/Other	90 points
2. SME Subcontract participation value	<u>10 points (variable)</u>
TOTAL	100 points

The SME subcontract participation value shall be an amount from 1 to a maximum of 10 points. This shall be applied to all Bids or proposals from competitors in procurements equal to or over the threshold amounts according to the following scale:

Points For Evaluation Purposes	Percentage Of Total Price In The Bid, Bid Or Proposal Committed To SME Subcontractors
One	More than five percent but less than ten percent
Two	More than ten percent but less than fifteen percent
Three	More than fifteen percent but less than twenty percent
Four	More than twenty percent but less than twenty-five

	percent
Five	More than twenty-five percent but less than thirty percent
Six	More than thirty percent but less than thirty-five percent
Seven	More than thirty-five percent but less than forty percent
Eight	More than forty percent but less than forty-five percent
Nine	More than forty-five percent but less than fifty percent
Ten	More than fifty percent

BID DATA SHEET

Bid Reference: _____

Bid Description: Supply, delivery of _____

Name of Associated Project: _____

1. Name of Procuring Organisation: _____

2. Procuring Organisation's address: _____

e-mail, telephone, and facsimile numbers _____

3. Loan or credit number, when applicable: _____

4. (Reserved)

5. Source of funds is as checked: [check as appropriate]

- Government of The Gambia Budget
- External Funding (e.g. Loan from the World Bank)
- Other [identify] _____

6. This is a Bid for the procurement of: _____

7. The number of copies of Bids to be submitted by Bidders is: _____

8. The address to which Bids shall be submitted is: [check as appropriate]

- The Procuring Organisation's address indicated in 2 above.
- The following address: _____

9. The name(s) and position(s) of the Responsible Person(s) of the Procuring Organisation are:

10. Deadline for Bid submission: _____

11. Time, date and place for Bid opening: _____

12. The language in which Bids shall be submitted is English.

13. If a Bid clarification meeting is necessary, separate notification will be provided to Bidders.

14. The goods/services required to be supplied are: [Overall general summary description including quantities, where applicable]

15. Entering into a joint venture is permitted: Yes No

16. Sub-contracting is permitted: Yes

17: Except for sub-Clauses 17G and 17H that always apply (but not sub-Clauses 17 G.1 and 17H.1 and 17H.2), only those other sub-Clauses below where the box has been checked are included in this Bid.

17.A Alternative solutions **are not** allowed as a separate offer in addition to the present Bid

17.A.1 Alternative solutions **are** allowed as a separate offer in addition to the present Bid, subject to the following conditions

(Limitations)

(Design criteria)

(Design responsibility)

(Other requirements)

(Checking, revision and approval procedures)

17B. Manufacturer's recommended spare parts are required, as follows:

(per lot/item)

(for months/years)

The period for which accessories and consumables are to be supplied is _____.

17C. After-sales and maintenance services are required. The minimum essential requirements are _____

17D. A training program is required and the minimum essential requirements are:

17E. The percentage (or units) by which the quantities purchased may vary is _____.

17F. FOB Destination does not apply under paragraph 4.1 of the Instructions to Bidders and the Goods must be shipped under terms of _____ per INCOTERMS 2000.

17G. The place(s) of destination (and installation) is/are:

17G.1 For purposes of this Bid, the place(s) of destination (and installation) are as stated in the Schedule of Requirements.

17H. The required date(s) of delivery (and installation) are

17H.1 For purposes of this Bid, the required date(s) of delivery are as stated in the Schedule of Requirements

17H.2 The Supplier shall be responsible for unpacking the goods and making them ready for acceptance _____ (within [state period]) or _____ (before [state date]) or _____ (between/during [state calendar dates/months]).

17I. The period for which after-sales and maintenance services are to be provided is _____

17J. The spare parts and consumables/accessories are to be priced individually item by item.

17K. The period for which the training program is to be provided is _____
{Optional} {The required number of trainees is _____, and the arrangements for lodging, accommodation, travel costs, etc are _____ }

17L. Advance Guarantee
The Supplier shall provide an advance guarantee, in the amount of 10% of the Contract Price, in favour of the Procuring Organisation _____ [state any other condition].
This advance guarantee shall be released when the terms and conditions of the contract have been fulfilled.

17M. The SME Evaluation Clause at ITB32 applies to the Bid and the Bidder is invited to submit the documentation set forth in ITB32 for evaluation and potential award of a contract under SCC 13.

18 Domestic preference does/does not [delete as appropriate] apply; the evaluation criteria are listed below in their order of importance:

a. _____

b. _____

c. _____

19. The amount of the Bid security is: [fixed sum or] _____ percent of the Bided amount and it shall remain valid until _____ [indicate validity period].

20. The period for which Bidders shall remain bound by their Bids is: _____ calendar days.

21. The similar contracts that Bidders shall have performed previously are a minimum number of _____ with a minimum value of _____ .

SCHEDULE OF REQUIREMENTS

The delivery schedule expressed in months stipulates hereafter a delivery date that is the date of delivery (a) at EXW premises, or (b) to the carrier at the port of shipment when the contract is placed on FOB or CIF terms, or (c) to the first carrier when the contract is placed on FCA or CIP terms. In order to determine the correct date of delivery hereafter specified, the Procuring Organisation has taken into account the additional time that will be needed for international or national transit to the place of destination.

Item #	Brief Description	Quantity	Delivery Schedule in months from Date of Notice of Award	Place of Destination

COMBINED TECHNICAL SPECIFICATIONS AND BID COMPLIANCE

1	2	3	4
Item No.	Technical Specification of Item Required	Compliance of technical specification of item offered	
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			

[Issue the Bid with column 2 completed, which represents the minimum technical specification required by the Procuring Organisation]

- a. The Bidder is to identify in column 3 the specification of the item offered under the Bid.
- b. The technical evaluation will compare the technical specification of the items Bided and decide that which most closely meets the specification in column 2. The technical evaluation will not determine the technical specification that most exceeds the specification in column 2. Bidders must complete column 3 or the Bid will be rejected. Bidders are expected to include technical literature to support the details in column 3.

Terms of Reference

GENERAL CONDITIONS

GCC-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 Procuring Organisation and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein;
- b) "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations;
- c) "Day" means calendar day.
- d) "The Goods" means all of the equipment, machinery, and/or other materials that the Supplier is required to supply to the Procuring Organisation under the Contract.
- e) "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;
- f) "GCC" means the General Conditions of Contract contained in this section;
- g) "SCC" means the Special Conditions of Contract;
- h) "The Procuring Organisation" means the organisation purchasing the Goods or Services, as case may be, as named in the Contract;
- i) "The Supplier," where applicable, means the individual or firm supplying the items under this Contract;

GCC-2. Sub-contracting

- 2.1 A sub-contract shall be valid only if it is a written agreement by which the Supplier entrusts performance of part of his Contract to a third party.
- 2.2 Unless it has been clearly documented and agreed between the Procuring Organisation and the Supplier, the Supplier shall not sub-contract without the prior written authorisation of the Procuring Organisation. The elements of the Contract to be sub-contracted and the identity of the sub-Suppliers shall be notified to the Procuring Organisation. The Procuring Organisation shall, within 30 days of receipt of the notification, notify the Supplier of its decision, stating the reasons for any withholding of such authorisation.
- 2.3 Sub-Suppliers must satisfy the eligibility criteria applicable for the award of the Contract.
- 2.4 The Procuring Organisation shall have no contractual relation with the sub-Suppliers, but may avail itself of any rights the Supplier has acquired against them.

GCC-3. Origin

- 3.1 There is no restriction on the nationality of origin of the goods, other than any that may be defined in a Resolution of the General Assembly of the United Nations.
- 3.2 For purposes of this Clause, "origin" means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognised product results that is substantially different in basic characteristics or in purpose or utility from its components.

3.3 The origin of goods and services is distinct from the nationality of the Bidder.

GCC-4. Technical Specifications and Terms of Reference

Unless otherwise provided for the Goods or the Services, as the case may be, must in all respects satisfy the requirements laid down in the Technical Specifications. As for procurement of Services, the Services are to be supplied as specified in the Terms of Reference.

GCC-5. Conflict of Interest

- 5.1 Suppliers (including all partners in a joint venture) must not be associated, nor have been associated in the past, with a consultant or any other entity that has prepared the terms of reference, Bid documents or other documents for the assignment. Any such association shall result in disqualification of the Supplier.
- 5.2 Suppliers (including all partners in a joint venture) must not have prepared or advised on the terms of reference, Bid documents or other documents for the assignment. Any such preparation or advisory work shall result in disqualification of the Supplier.
- 5.3 The Suppliers (including all partners in a joint venture) and all entities associated with the Suppliers are prohibited from participating in the assignment in any other manner or role than that provided for in the Contract.
- 5.4 The Suppliers (including all partners in a joint venture) and all entities associated with the Suppliers are prohibited for _____ [*specify period*] from participating in any Bid or Contract that may result from partial or full completion of the assignment covered by the Contract.
- 5.5 In acknowledgement of the above, and in view of whatever penalties exist under law, the Suppliers (including all partners in a joint venture) confirm no previous involvement or association in the preparation of the Documents by acceptance of contract award hereunder.

GCC-6. Performance Security

- 6.1 Within 30 days of the date of this Contract the Supplier shall furnish to the Procuring Organisation a performance security in the amount specified in the Special Conditions of Contract and in the form provided for. Failure to provide such security within 30 days shall result in cancellation of the Contract and forfeiture of the Supplier's Bid security.
- 6.2 The performance security shall be payable to the Procuring Organisation as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 6.3 The performance security shall be discharged by the Procuring Organisation and returned to the Supplier not later than 30 days following the date of completion of the Supplier's performance obligations under the Contract, including warranty obligations.
- 6.4 The performance security shall be issued in the form enclosed to this Contract.

GCC-7. Spare Parts

- 7.1 If the Contract so provides, the Supplier shall include with the Goods supplied a quantity of spare parts, drawn up in accordance with the Technical Specifications and the Special Conditions of Contract, and in the light of his professional experience taking into account the place of use and including those items that require replacing more frequently (e.g. fast moving, exposed to heavy use, etc.)
- 7.2 Unless otherwise provided for the spare parts shall be delivered with the Goods.
- 7.3 The Supplier shall guarantee the availability and replenishment of spare parts for a period of at least 10 years following the date of final acceptance of the Goods.

- 7.4 In the event of a decision to cease manufacture of spare parts the Supplier shall notify the Procuring Organisation in sufficient time to permit him to procure adequate quantities for future needs.
- 7.5 Upon cessation of manufacture of spare parts the Supplier shall furnish the Procuring Organisation, free of charge and if so requested, with any manufacturing, tooling, specifications and drawings of the spare parts used in the construction and maintenance of the Goods.

GCC-8. Inspections and Tests

- 8.1 The Procuring Organisation or his representative shall have the right to inspect and/or test the Goods to confirm their conformity to the Contract specifications, at no extra cost to the Procuring Organisation. The Technical Specifications and the Special Conditions of Contract shall specify what inspections and tests the Procuring Organisation requires and where they are to be conducted. The Procuring Organisation shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the Supplier or his sub-Supplier(s) at point of delivery, and/or at the final destination of the Goods. If conducted on the premises of the Supplier or his sub-Supplier(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Organisation.
- 8.3 Should any inspected or tested Goods fail to conform to the Contract specifications the Procuring Organisation may reject them and the Supplier shall replace the rejected Goods or make alterations necessary to meet the specifications requirements free of cost to the Procuring Organisation.
- 8.4 The Procuring Organisation's right to inspect, test and, where necessary, reject the Goods after their arrival in The Gambia shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Procuring Organisation or his representative prior to the shipment of the Goods from the country of origin.
- 8.5 Nothing in this Clause 8 shall in any way release the Supplier from any warranty or other obligations under the Contract.

GCC-9. Delivery Conditions

- 9.1 The Supplier shall deliver the Goods to their respective place(s) of destination in accordance with the terms specified in the Contract. Unless otherwise provided for, delivery shall include all operations necessary to provide the Goods at the respective destination ready for acceptance, such as packaging, shipping, carriage and insurance, completion of all administrative or commercial formalities involved therein, or any other service to ready the Goods for acceptance at their place(s) of destination.
- 9.2 Details of shipping and/or other documents to be furnished by the Supplier may be specified in the Special Conditions of Contract.
- 9.3 For purposes of the contract, "EXW", "FOB", "FCA", "CIF", "CIP", and other trade terms used to describe the obligations of the parties shall have the meanings assigned to them by the current edition of INCOTERMS published by the International Chamber of Commerce, Paris.
- 9.4 Insurance is required in accordance with the Special Conditions of Contract.
- 9.5 Unless otherwise provided for, the Supplier shall bear all risks until provisional acceptance is pronounced. Upon provisional acceptance the Procuring Organisation acquires full title and ownership to the Goods supplied and the right to make full and unimpaired use of them.

GCC-10. Packaging

- 10.1 The Supplier shall provide such packaging of the Goods as is required to prevent their damage or deterioration in transit to their final destination(s). The packaging shall be sufficient to withstand, without limitation, rough handling, exposure to extreme temperatures, salt and precipitation during

transit and open storage. Package size and weights shall take into consideration, where appropriate, the remoteness of the final destination(s) of the Goods, and the possible absence of heavy handling facilities at all points in transit.

- 10.2 With the exception of ISO containers the packaging of the Goods shall become the property of the Procuring Organisation.

GCC-11. Delivery Period

- 11.1 The Goods shall be delivered to their place(s) of destination within the delivery period specified in the Contract. Unless otherwise provided for the delivery period shall include all operations necessary to present the Goods ready for acceptance.
- 11.2 If a special delivery period is fixed for each lot the periods shall not be cumulative where more than one lot is awarded to the same Supplier. In this case, the delivery period for each lot shall run concurrently.

GCC-12. Delayed Delivery

- 12.1 The Supplier shall ensure that the Goods are delivered to the place(s) of destination as stipulated and in time to allow the person responsible to proceed with acceptance. The Supplier is deemed to have appreciated fully the difficulties he might encounter in this respect, and he shall not be permitted to advance any grounds for delay in fulfilling his obligations.
- 12.2 Except as provided under GCC 27 Force Majeure, a delay in the delivery of more than one week by the Supplier shall render the Supplier liable to the imposition of liquidated damages calculated from the expiry of the contractual period, such damages being fixed at 1/1000th of the value of the undelivered Goods for each day the delay lasts, unless a different amount or percentage is specified in the SCC. Such damages in aggregate shall not exceed 15% of the total Contract value. In the case of delay in the delivery of more than one week the Supplier shall be liable to pay liquidated damages calculated from the expiry of the contractual period, such damages being fixed at 1/1000th of the value of the undelivered Goods for each day the delay lasts. Such damages in aggregate shall not exceed 15% of the total Contract value.
- 12.3 If the defaulting party prevents the normal use of the Goods as a whole the liquidated damages for delay shall be calculated on the basis of the total cost of the Goods.

GCC-13. Acceptance Conditions

- 13.1 Delivery of the Goods shall be subject to provisional and final acceptance. If there is no warranty for the Goods provisional acceptance shall be deemed to constitute final acceptance.
- 13.2 The organisation(s) responsible for provisional and final acceptance is/are specified in the Contract. The Goods shall be accepted at the place(s) of destination, in the presence of the Supplier, if so requested by him, and at his cost.

GCC-14. Provisional Acceptance

- 14.1 The Goods shall be taken over on provisional acceptance when they have been delivered to their place(s) of destination in accordance with the Contract and are ready for use.
- 14.2 Provisional acceptance shall take place at the earliest possible opportunity, and at the latest within two weeks of presentation of the Goods for acceptance at the place(s) of destination. The Supplier must give notice thereof to the organisation responsible for acceptance.
- 14.3 If the Goods are found to be damaged or defective, or not in conformity with the Contract, a report shall be drawn up forthwith and forwarded to the Supplier, who shall be requested to verify the facts and to notify his findings within 15 days. Goods that do not comply with the conditions laid down in the Contract shall be either repaired or replaced by the Supplier, at the option of the Procuring Organisation, and at the expense of the Supplier. If the replacement or repair is not

performed satisfactorily the Procuring Organisation shall have the right to reject the Goods, which shall be returned to the Supplier at his expense.

- 14.4 A certificate of provisional acceptance shall be drawn up recording acceptance or rejection together with any reservations or observations made. This certificate shall state the date of provisional acceptance and shall entitle the Supplier to the relevant payments under the Contract.
- 14.5 This certificate is deemed to have been issued if provisional acceptance or rejection has not been pronounced within a period of 30 days from the date at which the responsible organisation has received the Supplier's notice or from any other date that may have been arranged between them.

GCC-15. Final Acceptance

Final acceptance shall be pronounced at the earliest possible opportunity after the expiry of the warranty period and on the condition that the Goods are found to be in full working order and in compliance with the Contract specifications. A certificate of final acceptance shall be drawn up and provided to the Supplier.

GCC-16. Warranty Obligations

- 16.1 The Supplier shall warrant that the Goods are new and unused supplies, of the most recent model, and that they incorporate all recent improvements in design and materials, unless otherwise provided for the Supplier further shall warrant that the Goods have no defect arising from design, materials, and workmanship, except insofar as the design of the Goods is required by the specifications, or from any act or omission of the Procuring Organisation that may develop under use.
- 16.2 The Supplier shall warrant that the Goods are fit for the purpose for which they are to be used, operate as stated in the manufacturer's technical specifications and may be freely used without infringing third parties' industrial property and patent rights or copyrights.
- 16.3 Unless otherwise provided for this warranty shall cover spare parts and accessories.

Unless otherwise provided for, this warranty shall remain valid for twelve months after the Goods or any portion thereof, as the case may be, have been delivered and commissioned at the final destination(s) or for eighteen months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise in the SCC. The obligation to maintain the Goods shall be subject to any stipulation in the Contract and specifications which shall determine the period and conditions thereof.

The Supplier shall be responsible for making good any defect in or damage to any part of the Goods which may appear or occur during the warranty period, or within 30 days after its expiry, and which may arise either:

- a) From the use of defective materials, faulty workmanship or design of the Supplier, or
- b) From any act or omission of the Supplier during the warranty period, or
- c) In the course of an inspection made by, or on behalf of, the Procuring Organisation.

The Supplier shall at his own cost make good the defect or damage as soon as practicable. The warranty period for all items repaired or replaced shall recommence from the date when the replacement or repair was made to the satisfaction of the Procuring Organisation. If the Contract provides for partial acceptance the warranty period shall be extended only for the part of the Goods affected by the replacement or repair.

If any such defects appear or such damage occurs during the warranty period the Procuring Organisation shall notify the Supplier. If the Supplier fails to remedy a defect or damage within the time limit stipulated in the notification the Procuring Organisation may:

- a) Remedy the defect or damage itself, or employ someone else to carry out the work at the Supplier's risk and cost, in which case the costs incurred by the Procuring Organisation shall be deducted from monies due to or from guarantees held against the Supplier or from both, or
- b) Terminate the Contract.

- 16.8. In case of emergency, where the Supplier cannot be reached immediately or, having been reached, is unable to take the measures required, the Procuring Organisation may have the work carried out at the expense of the Supplier. The Procuring Organisation shall as soon as practicable inform the Supplier of the action taken.

GCC-17. Training, After-Sales and Maintenance Services

- 17.1 If the Contract and the Special Conditions of Contract so provide, and in accordance with the details stipulated there, the Supplier shall provide a training programme for the Procuring Organisation's personnel. In addition, he shall provide reliable and regular after-sales and maintenance services at the place(s) of destination of the Goods supplied, guaranteeing their upkeep and repair and the rapid replenishment of spare parts.
- 17.2 The obligation to provide after-sales and maintenance services shall begin after the warranty period has expired.

GCC-18. Payments

- 18.1 Unless otherwise provided for in the Special Conditions of Contract (SCC), payments shall be made in the currency of The Gambia.
- 18.2 Payments shall be made promptly by the Procuring Organisation, but in no case later than sixty days after submission of an invoice or claim by the Supplier.

GCC-19. Spreading of Payments

Unless otherwise provided for in the Special Conditions of Contract, payments shall be spread as follows:

- 19.1 10% of the Contract Price for the Goods to be supplied shall be paid within 30 days of the date the Contract is placed, in accordance with the provisions of Clause 10.1.1 of the Special Conditions of Contract.
- 19.2 70% of the Contract Price for the Goods shipped shall be paid following shipment, in accordance with the provisions of Clause 10.1.2 of the Special Conditions of Contract.
- 19.3 20% of the Contract Price for the Goods supplied shall be paid following provisional acceptance, in accordance with the provisions of Clause 10.1.3 of the Special Conditions of Contract. Payment of this 20% balance may, if the Supplier so wishes, be made at the same time as the 70% instalment referred to in Clause 19.2, if the Supplier provides a guarantee securing repayment of the full amount of the final 20% payment.
- 19.4 The guarantee will be released on final acceptance, against presentation of any document proving final acceptance endorsed by the Authority or Authorities named in the Contract. When no such acceptance has been granted it will be released two months after expiry of the warranty period save where the Procuring Organisation has submitted a claim.
- 19.5 Where only part of the Goods have been delivered, the 70% payment instalment due following shipment shall be calculated not on the total Contract Price, but on the value of the part of the Goods which actually has been shipped.

GCC-20. Payment Procedure

The payment procedure is specified in Clause 9 of the Special Conditions of Contract.

GCC-21. Change Orders

- 21.1 The Procuring Organisation may at any time, by written order given to the Supplier pursuant to GCC 28, 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 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.
- 21.2 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 days from the date of the Supplier's receipt of the Procuring Organisation's change order.

GCC-22. General Obligations of the Supplier

- 22.1 The Supplier shall carry out the duties entrusted to him by the present Contract strictly in accordance with the terms and conditions of this Contract.
- 22.2 If the Supplier is a joint venture or consortium of two or more persons all such persons shall be jointly and severally bound to fulfil the terms of the Contract according to the laws of The Gambia.

GCC-23. Price Adjustment

Prices charged by the Supplier for the Goods or Services procured under the Contract shall not vary from the prices quoted by the Supplier in its Bid, with the exception of any price adjustments authorised in the SCC.

GCC-24. Assignments

- 24.1 An assignment shall be valid only if it is a written agreement by which the Supplier transfers his Contract or parts thereof to a third party or parties.
- 24.2 The Supplier shall not, without the prior written consent of the Procuring Organisation, assign the Contract or any part thereof, or any benefit or interest thereunder, except in the following cases:
- 24.2.1 A charge, in favour of the Supplier's bankers, on any monies due or to become due under the Contract, or
 - 24.2.2 Assignment to the Supplier's insurers of the Supplier's right to obtain relief against any other person liable in cases where the insurers have discharged the Supplier's loss or liability.
- 24.3 The approval of an assignment by the Procuring Organisation shall not relieve the Supplier of his obligations under the Contract, neither for the part of the Contract already performed nor the part not assigned.
- 24.4 If the Supplier assigns his Contract, or any part thereof, without authorisation the Procuring Organisation may, without giving formal notice thereof, apply as of right the sanctions for breach of Contract.
- 24.5 Assignees must satisfy the eligibility criteria applicable to the award of the Contract.

GCC-25. Taxation

The Supplier shall be responsible for complying with the national tax laws applicable to him in respect of revenue received under the Contract.

GCC-26. Liability

- 26.1 The Supplier shall be liable to the Procuring Organisation for full performance of all obligations resulting from the Contract, and shall repair any damage caused to the Procuring Organisation or the persons for whom the Goods or Services are procured as a result of any act or omission relating to the performance of the Contract which is attributable to him as a result in particular of his warranty or negligence, errors or omissions.
- 26.2 Whenever the use of the Goods or the performance of the Services involves copyrights, patents, registered designs, trade marks, brand names, industrial design or models belonging to third parties the Supplier shall indemnify the Procuring Organisation or the persons for whom the Goods or Services have been procured against any claim or action for infringement which may be brought against them.

GCC-27. Force Majeure

- 27.1 Neither party shall be considered to be in default or in breach of his obligations under the Contract if the performance of such obligations is prevented by any circumstance of force majeure which arises after the date of notification of award or the date when the Contract becomes effective, whichever is earlier.
- 27.2 In order to rely upon force majeure the Supplier or the Procuring Organisation must show that they were unable to perform the relevant operations within the period laid down as a result of unusual circumstances outside their control, the consequences of which, in spite of the exercise of due care on their part, they could not have avoided except at the cost of excessive sacrifice. For purposes of this Clause, those circumstances include any event beyond the control of the Supplier and not involving the Supplier's fault or negligence and not foreseeable. Such events may include, but are not restricted to, acts of the Procuring Organisation in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 27.3 The Supplier shall not be liable for liquidated damages or termination for default if, and to the extent that, his delay in performance or other failure to perform his obligations under the Contract is the result of an event of force majeure. The Procuring Organisation similarly shall not be liable to payment of interest on delayed payment, for non-performance or for termination by the Supplier for default if, and to the extent that, the Procuring Organisation's delay or other failure to perform its obligations is the result of force majeure.
- 27.4 If either party considers that any circumstances of force majeure have occurred which may affect the performance of his obligations he shall promptly notify the other party, giving details of the nature, the probable duration and the likely effect of the circumstances. Unless otherwise directed the Supplier shall continue to perform his obligations under the Contract as far as is reasonably practicable, and shall seek all reasonable alternative means for performance of his obligations which are not prevented by the force majeure event. However, the Supplier shall not put into effect such alternative means for performance of his obligations which are not prevented by the force majeure event unless directed to do so by the Procuring Organisation.
- 27.5 If circumstances of force majeure have occurred and continue for a period of 90 days then, notwithstanding any extension of time for completion of the Contract that the Supplier by reason thereof may have been granted, either party shall be entitled to serve upon the other 30 days notice to terminate the Contract. If at the expiry of the period of 30 days force majeure still continues the Contract shall terminate and, in consequence thereof, the parties shall be released from further performance of the Contract.

GCC-28. Modifications

Any modification to the Contract shall be set out in an amendment, which shall be drawn up before the execution of the modification is begun, and signed by both parties.

GCC-29. Termination by the Procuring Organisation

- 29.1 Unless otherwise provided for the Procuring Organisation may, after giving 7 days notice to the Supplier, terminate the Contract in any of the following cases where:
- a) The Supplier fails to perform in strict accordance with the provisions of the Contract.
 - b) The Supplier fails to comply within a reasonable time with a notice given by the Authority responsible for acceptance requiring him to make good any neglect or failure to perform his obligations under the Contract which seriously affect the proper and timely performance of the Contract.
 - c) The Supplier refuses or neglects to carry out reasonable instructions given by the Procuring Organisation.
 - d) The Supplier assigns the Contract or sub-contracts without the authorisation of the Procuring Organisation.
 - e) The Supplier becomes bankrupt or insolvent, or has a receiving order made against him, or compounds with his creditors, or carries on business under a receiver, trustee or manager for the benefit of his creditors, or goes into liquidation.
 - f) Any adverse final judgement is made in respect of an offence relating to the professional conduct of the Supplier.
 - g) Any other legal disability hindering performance of the Contract occurs.
 - h) Any organisational modification occurs involving a change in the legal personality, nature or control of the Supplier, unless such modification is recorded in an endorsement to the Contract signed by the Supplier and the Procuring Organisation.
 - i) The Supplier fails to provide the required guarantee or insurance, or if the person providing the guarantee or insurance is not able to abide by his commitment.
- 29.2 Termination shall be without prejudice to any other rights or powers under the Contract for the Procuring Organisation and the Supplier. The Procuring Organisation may, thereafter, conclude any other contract with a third party for the performance of the original Contract at the cost of the Supplier. The Supplier's liability for delay in completion shall immediately cease upon termination without prejudice to any liability thereunder that may already have occurred.
- 29.3 The Procuring Organisation, 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 Procuring Organisation's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective and that the Procuring Organisation shall be pay reasonable costs associated with such termination. The Supplier shall take all reasonable actions to minimise the costs of such termination.

GCC-30. Resolution of Disputes/Arbitration

- 30.1 In case of a dispute between the Procuring Organisation and a local Supplier the dispute shall be referred to the competent tribunal in The Gambia.
- 30.2 Where disagreement arises in the course of the performance of the Contract between the Procuring Organisation and a foreign Supplier all disputes shall finally be settled under the rules of

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

- 30.3 No request for settlement shall be submitted to the arbitrator unless an attempt has first been made to settle the dispute amicably within 120 days of the notification of the complaint or any other period the parties agree upon. The request for arbitration must be submitted within 60 days of the end of the said period of conciliation.
- 30.4 Both parties shall proceed diligently with performance of this Contract, pending final resolution of any dispute arising under the Contract.

GCC-31. Notices

- 31.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing, or by fax, telex or cable confirmed in writing, to the other party's address.
- 31.2 A notice shall be effective when delivered.

GCC-32. Application of Special Conditions of Contract

Special Conditions of Contract do not apply to this Contract except to the extent the specific Special Conditions are identified within this Clause.

The Special Conditions of the Contract shall supplement and take precedence over the General Conditions of the Contract.

[List those special conditions of contract that shall be effective for the contract. IF NO SPECIAL CONDITIONS SHALL APPLY WRITE THE WORD "NONE"]

SPECIAL CONDITIONS OF CONTRACT

These Special Conditions of Contract shall apply, in whole or in part, only when specifically made part of the contract in General Conditions of Contract (GCC) clause GCC-32 "Application of Special Conditions of Contract". Whenever there is a conflict, the provisions in the SCC shall prevail over those in the General Conditions of Contract. The corresponding Clause numbers of the General Conditions of Contract are shown in brackets.

SCC-1. Definitions

The Procuring Organisation is *[insert name of Procuring Organisation]*

The Supplier is *[insert name of Supplier]*

SCC-2. Performance Security (GCC-6)

GCC 6.1 - The amount of performance security, as a percentage of the Contract Price, shall be *[insert percentage between 5% and 10%]*.

GCC 6.2 - After delivery and provisional acceptance of the Goods/Services *[use appropriate term]* the performance security shall be reduced to two (2) percent of the Contract Price to cover the Supplier's warranty obligations in accordance with GCC Clause 16.

SCC-3. Spare Parts (GCC 7)

GCC 7 - Additional spare parts requirements are:

[Insert the following sample provision, or such other wording as is appropriate to the particular procurement:

"GCC 7 - 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 six (6) months of the date of Contract."]

SCC-4. Inspections and Tests (GCC-8)

GCC 8.1 - Inspection and tests prior to shipment of Goods and at final acceptance are as follows:

[insert details of inspections and tests required]

SCC-5. Delivery Conditions (GCC-9)

GCC 9.2 - for Goods supplied from outside The Gambia:

Upon shipment the Supplier shall notify the Procuring Organisation and the Insurance Company by fax, electronic mail or cable the full details of the shipment, including Contract number, description of Goods, quantity, vessel name, bill of lading number and date, port of loading, date of shipment, port of discharge, estimated date of arrival, etc. The Supplier shall mail the following documents to the Procuring Organisation, with a copy to the insurance company:

- a) Original and two copies of the Supplier's invoice showing the Contract number, Goods description, quantity, unit price and total amount;
- b) Original and two copies of the bill of lading;
- c) Three copies of packing list identifying the contents of each package;
- d) Original and two copies of insurance certificate;
- e) Original and two copies of the Supplier's/manufacture's warranty certificate;

- f) Original and two copies of the inspection certificate, issued by the nominated inspection agency, and the Supplier's inspection report.

[g) Insert other documents, as required]

These documents shall be received by the Procuring Organisation at least one week before arrival of the Goods at the port or place of arrival. If they are not so received the Supplier shall be responsible for any consequent expenses.

GCC 9.2 – For Goods supplied from within The Gambia:

Upon delivery of the Goods to the transporter the Supplier shall notify the Procuring Organisation and mail to him the following documents:

- a) Original and two copies of the Supplier's invoice showing Goods description, quantity, unit price and total amount;
- b) Delivery note/railway receipt/truck receipt;
- c) Original and two copies of the manufacturer's/Supplier's warranty certificate;
- d) Original and two copies of the inspection certificate, issued by the nominated inspection agency, and the Supplier's factory inspection report;
- [e) Insert other documents, as required].*

These documents shall be received by the Procuring Organisation before arrival of the Goods. If they are not so received the Supplier shall be responsible for any consequent expenses.

SCC-6. Insurance (GCC 9)

GCC 9.4 - The insurance shall be in an amount equal to 110% of the CIF or CIP value of the Goods from warehouse to warehouse on an All Risks basis, including War Risks and Strikes *[different terms and conditions for insurance may be specified, if necessary]*.

SCC-7. Warranty (GCC 16)

[Sample provision - insert, amended as necessary, if appropriate to the particular procurement:

"GCC 16 - In partial modification of the provisions, the warranty period shall be [insert number] hours of operation or [insert number] months from date of acceptance of the Goods or [insert number] months from the date of shipment, whichever occurs earlier. In addition, the Supplier shall comply with the performance and/or consumption guarantees specified under the Contract. If, for reasons attributable to the Supplier, these guarantees are not attained in whole or in part, the Supplier shall, at its discretion, either:

- a) *make such changes, modifications and/or additions to the Goods, or any part thereof, as may be necessary in order to attain the contractual guarantees specified in the Contract at its own cost and expense and to carry out further performance tests in accordance with Clause 4 of the Special Conditions of Contract,*
- or
- b) *pay liquidated damages to the Procuring Organisation with respect to the failure to meet the contractual guarantees. The rate of these liquidated damages shall be [insert rate]."*

SCC-8. Training, After-Sales and Maintenance Services (GCC 17)

GCC 17.1 – The training, after-sales and maintenance services to be provided are:

[Insert selected services covered under GCC Clause 17 and/or others, specified with desired features. The price quoted in the Bid price or agreed with the selected Supplier shall be included in the Contract Price.]

SCC-9. Payments (GCC 18)

GCC 18 – Payment shall be made in the following manner:

- 18.1 Payment shall be made in _____ Currency.
- 18.2 For the first instalment of 10% the Supplier must submit to the Procuring Organisation invoices in duplicate, a photocopy of the Letter of Contract and a guarantee (in the form provided for in the Contract) securing repayment of the full amount of the payment instalment.
- 18.3 The second instalment of 70% shall be paid through confirmed irrevocable letter of credit in favour of the Supplier through a bank in his own country upon presentation to the advising bank for payment through the letter of credit the documents stipulated in Clause 5 of the Special Conditions of Contract.
- 18.4 The third instalment of 20% shall be paid through confirmed irrevocable letter of credit in favour of the Supplier through a bank in his own country upon presentation to the advising bank for payment through the letter of credit any document proving provisional acceptance endorsed by the Authority or Authorities named in the Contract as well as invoices in triplicate or, where appropriate, the original of the guarantee, with one photocopy.
- 18.5 The percentages referred to above shall mean the unit and overall price of the Goods to be supplied, excluding the separately quoted prices of spare parts, accessories, or training, after-sales and maintenance services. These latter prices shall be paid in full after delivery of such parts or services.

SCC-10. Price Adjustment (GCC 23)

GCC 23 - Prices shall be adjusted in accordance with the provisions set out in Attachment I to these SCC.

SCC-11. Notices (GCC 31)

GCC 31 - The Procuring Organisation 's address for notice purposes is: *[insert address]*

- The Supplier's address for notice purposes is: *[insert address]*

SCC-12. Guarantee (GCC 19)

GCC 19.3 – The Supplier provides as guarantee securing repayment of the full amount of the final 20% payment.

GCC 19.4 – The guarantee will be released on final acceptance, against presentation of any document proving final acceptance endorsed by the Authority or Authorities names in the Contract.

SCC-13. Subcontracting With Small And Medium Enterprises (SMEs)

- 13.1 The Government of The Gambia encourages the development of the national economic base. To support this objective, small and medium enterprises (SME) will be encouraged to participate to the maximum extent in competing for public procurement contracts.
- 13.2 SME means an entity legally registered to do business in The Gambia and which is engaged in active business activities, which employs residents of The Gambia, which is in good standing, and which have total annual revenue in the tax year most recently completed prior to the announcement of the procurement of less than *[indicate threshold]* or US\$ 3 million, whichever is larger.

- 13.3 *Committed SME subcontract amounts* means an amount equal to the value of work performed in-house by an SME who is competing as a prime contractor for the award of a contract, plus
the value of existing contracts between a prime contractor and an SME subcontractor, and
any other form of a firm, legally-binding commitment (e.g. letter of intent) between the prime contractor and the SME subcontractor, and which
do not contain any of the following burdensome provisions imposed on the subcontractor:
- i. A right of set-off in favour of the prime contractor.
 - ii. Rights given to the prime contractor or his agent with no recourse to independent adjudication in the event of a dispute arising.
 - iii. Payment procedures based on a pay-when-paid system.
 - iv. A dispute resolution procedure that does not include dispute resolution procedures such as arbitration or mediation as an alternative to litigation in court.
 - v. Unreasonable retention percentages and periods of retention.
 - vi. Conditions that are more onerous than those that exist in the prime contract.
- 13.4 The Supplier, having been awarded the Contract on the basis of a committed SME subcontract plan amount set forth in accordance with ITB 32, must demonstrate, as a condition for payment of the third instalment under SCC 9 that sub-contracts were in fact awarded and effected to the extent submitted for evaluation under ITB32.
- 13.5 Large businesses, which falsely state any material fact to obtain a benefit under this Clause, including the inclusion of the above onerous provisions in subcontracts with SMEs, may be subject to debarment proceedings.

Attachment I to the Special Conditions

SCC Clause 10 (GCC 23) Price Adjustment:

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

$$P_1 = P_o \left(a + b \frac{L_1}{L_o} + c \frac{M_1}{M_o} \right) - P_o$$

In which:

- P_1 = adjustment amount payable to the Supplier
- P_o = Contract Price (base price)
- a = fixed element representing profits and overheads included in the Contract price and generally in the range of five (5) to fifteen (15) percent.
- b = estimated percentage of labour component in the Contract Price
- c = estimated percentage of material component in the Contract Price
- L_o, L_1 = labour indices applicable to the Contract on the base date and date for adjustment
- M_o, M_1 = material indices for the major raw material as applicable to the Contract on the base date and date for adjustment, respectively.

The coefficients a, b, and c shall be specified by the Procuring Organisation in the Bid documents. The sum of the three coefficients should be one (1) in every application of the formula. The Bidder shall indicate the source of the indices and the base date indices in its Bid. Base date = thirty (30) days prior to the deadline for submission of the Bids. Date of adjustment = _____ weeks prior to the date of shipment (representing the mid-point of the period of manufacture) in the case of procurement of Goods, and prior to the date of commencement of performance of the Services in the case of procurement of Services.

Either party may invoke the above price adjustment formula subject to the following further conditions:

Price adjustment will be applied only if the resulting increase or decrease is more than two (2) percent of the Contract Price.

No price adjustment shall be allowed beyond the above mentioned dates unless specifically stated in the extension letter. As a rule, no price adjustment shall be allowed for periods of delay for which the Supplier is entirely responsible. The Procuring Organisation will however be entitled to any decrease in the Prices of the Goods and Services subject to adjustment.

The total adjustment under this Clause shall be subject to a ceiling of plus or minus ten (10) percent of the Contract Price.

If the currency in which the Contract Price P_o is expressed is different from the currency of the origin of the labour and material indices, a correction factor will be applied to avoid incorrect adjustments of the Contract Price. The correction factor shall correspond to the ratio of exchange rates between the two currencies on the base date and the date for adjustment as defined above.

No price adjustment shall be payable on the portion of the Contract Price paid the Supplier as advanced payment.

BID FORM

Date: _____

Bid Document Number: _____

To: _____

WE, THE UNDERSIGNED, DECLARE THAT:

- (a) We have examined and have no reservations to the Bid Document, including any amendments made [identify the amendment(s) by number] _____;
- (b) We offer to supply in conformity with the Bid Document and in accordance with the delivery schedule specified in the Bid Data Sheet and the Schedule of Requirements, the following Goods/Services [use as appropriate] _____;
- (c) The total price for our Bid is: _____;
- (d) Our Bid shall be valid for a period of _____ calendar days from the date fixed for the Bid submission deadline in accordance with the Bid Document, and it shall remain binding upon us and may be accepted at any time before the expiration of that period;
- (e) If our Bid is accepted, we undertake to provide a Performance Security in the amount of _____ percent of the contract price for the due performance of the contract;
- (f) We are not participating, as Bidders, in more than one Bid in this Bidding process;
- (g) 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;
- (h) We understand that you are not bound to accept the lowest evaluated Bid or any other Bid you may receive.

WE FURTHER CERTIFY THAT WE:

- (i) possess the legal capacity to enter into the contract;
- (ii) possess the necessary professional and technical qualifications and competence, financial resources, equipment and other physical facilities, managerial capacity, experience in the procurement object, reputation and the personnel, to perform the contract;
- (iii) are not insolvent, in receivership, bankrupt or being wound up, my(our) business activities have not been suspended, and I(we) are not subject of a legal proceeding for any of the foregoing;
- (iv) have fulfilled our obligations to pay taxes and social security contributions;
- (v) are not subject to suspension of payments in accordance with the judgment of a court or a judgment declaring bankruptcy and resulting, in accordance with our national laws, in the total or partial loss of the right to administer and dispose of my(our) property nor is any such legal proceeding pending;
- (vi) are not guilty of serious misrepresentation with regard to information required for participation in a public procurement;
- (vii) are not in breach of a public procurement contract; and,
- (viii) have performed previously the number and value of similar contracts as required in the qualification requirements of this procurement.

Name: _____

In the capacity of _____

Signed: _____

Duly authorized to sign the Bid for and on the behalf of

_____ with Power of Attorney
attached

Date (DD/MM/YY) _____

PRICE SCHEDULE

Name of Bidder _____.

Bid Number _____.

Page _____ of _____.

1	2	3	4	5	6	7	8
Item	Description	Quantity	Unit price Ex-works	Total price ex- works	Unit cost of delivery to place of destination (including packing, insurance, transportation, etc)	Total cost of delivery to place of destination (including packing, insurance, transportation, etc)	Unit price with exclusion of all customs and duties due

FORM OF BID SECURITY

BANK GUARANTEE

Whereas _____ [name of Bidder] (hereinafter called "the Bidder") has submitted its Bid dated _____ [date of submission of Bid] for the provision of _____ [name and/or description of goods, services or works] (hereinafter called "the Bid")

KNOW ALL PEOPLE by these presents that WE _____ [name of bank] of _____ [name of country], having our registered office at _____ [address of bank] (hereinafter called "the Bank"), are bound unto _____ [name of Procuring Organisation] (hereinafter called "the Procuring Organisation ") in the sum of _____ [amount of Bid security] for which payment well and truly to be made to the said Procuring Organisation, the Bank binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Bank this _____ day of _____

THE CONDITIONS of this obligation are:

1. If the Bidder withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Form; or
2. If the Bidder, having been notified of the acceptance of its Bid by the Procuring Organisation during the period of Bid validity:
 - 2.1 fails or refuses to execute the Contract Form; or
 - 2.2 fails or refuses to furnish the performance security; or
3. If the Bidder fails to correct errors

we undertake to pay to the Procuring Organisation up to the above amount upon receipt of its first written demand, without the Procuring Organisation having to substantiate its demand, provided that in its demand the Procuring Organisation will note the occurrence of one of the above conditions.

This guarantee will remain in full force and effect up to and including _____ [indicate days] days after the period of Bid validity.

Signature and Seal of the Bank

FORM OF PERFORMANCE SECURITY

To: _____ [*name of Procuring Organisation*]

WHEREAS _____ [*name of Supplier*] (hereinafter called "the Supplier") has undertaken, in pursuance of Contract No. _____ [*reference number of Contract*] dated _____ to perform _____ [*description of items*] (hereinafter called "the Contract");

AND WHEREAS it has been stipulated by you in the said Contract that the Supplier shall furnish you with a Bank Guarantee by a recognised bank for the sum specified therein as security for compliance with his obligations in accordance with the Contract;

AND WHEREAS we have agreed to give the Supplier such a Bank Guarantee;

NOW THEREFORE we hereby affirm that we are the Guarantor and responsible to you, on behalf of the Supplier, up to a total of _____ [*amount of Guarantee*]

_____ [*amount in words*], such sum being payable in the types and proportions of currencies in which the Contract Price is payable, and we undertake to pay you, upon your first written demand and without cavil or argument, any sum or sums within the limits of _____ [*amount of Guarantee*] as aforesaid without you needing to prove or to show grounds or reasons for your demand for the sum specified therein.

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

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

Signature and Seal of the Guarantor

Name of Bank: _____

Address: _____

Date: _____

¹ An amount is to be inserted by the Guarantor, representing the percentage of the Contract Price specified in the Contract, and denominated in the currency of the Contract.

FORM OF SECURITY FOR ADVANCE PAYMENT

BANK GUARANTEE

Bank: _____
_____ [Name and Identification]

Official Stamp:

To: _____ [Name and Address of Procuring Organisation]

Title of Contract: _____

Guarantee No. _____

In accordance with the provisions of the above-mentioned Contract, the _____

[name and address of Supplier] (hereinafter called "the Supplier") shall deposit with _____
_____ [name of Procuring

Organisation] a bank Guarantee to guarantee his proper and faithful performance under the said Contract in an
amount of _____ [amount of Guarantee]

_____ [amount in words].

We, the _____ [bank or financial institution], as instructed by the
Supplier, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the
payment to the Procuring Organisation on your first demand without whatsoever right of objection on our part
and without its first claim to the Supplier, in the amount not exceeding
_____ [amount of guarantee in figures and words].

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

This guarantee shall become effective on receipt by the Supplier of the advance payment of
_____ [amount in words] and shall
remain valid until the Procuring Organisation receives full repayment of the same amount from
_____ [name of Supplier]

Signature and seal of the Guarantors

[Name of Bank or Financial Institution]

[Address]

[date]

NOTIFICATION OF AWARD

Date: _____

Bid No: _____

The _____ [name of Procuring Organisation] notifies _____ [name and address of successful Bidder] that the Bid presented on _____ [date] for the provision of _____ [name and general description of items] for the total sum of _____ [amount in words and figures] is accepted. A Contract Form covering this award is enclosed.

The Bidder _____ [name] is asked to present _____ to _____ [name and address of Procuring Organisation] before _____ [date]:

- ◆ The performance security contemplated in the General Conditions of Contract, duly executed;
- ◆ The acknowledgement copy of the Contract Form, properly signed.

_____ [Procuring Organisation]

[Name, Signature and Seal]

CONTRACT FORM

PARTIES

BETWEEN:

_____ (Insert name of Procuring Organisation),
represented by the _____

_____ [insert name and address of Accounting Officer] hereinafter referred to as the "Procuring Organisation "

AND:

_____ [insert name and address of Supplier]
represented by _____ hereinafter referred to as the "Supplier"

Contract No: _____

This Contract follows Bid _____ [state title & no] and the
Supplier's offer dated _____ [state date] (as amended hereafter).

It is agreed to supply the Goods/perform the Services [use as appropriate] specified hereafter according to the conditions laid out in this Contract Form;

- ◆ the Bid Form and the Price Schedule submitted by the Bidder;
- ◆ the Schedule of Requirements;
- ◆ the Technical Specifications/TOR;
- ◆ ;
- ◆ the General Conditions of Contract;
- ◆ the Special Conditions of Contract;
- ◆ the Procuring Organisation's Notification of Award;
- ◆ we already have this. If there is an advance payment some security is needed for the loan the government is giving to the supplier. the Form of Security for Advance Payment;
- ◆ the Form of Performance Security. (SEE GCC 6) (The Bid security should come with the bid. This is where we need the performance security. This does not say that we have it when the contract is signed – it says that the performance security forms a part of the contract and GCC 6 says it is to be provided in 30 days))

All these documents being attached hereto and forming an integral part of this Contract.

Article 1: Subject

1.1 The Supplier shall supply the following item(s)

[state general Summary Description including quantities ... lots]

[Lot 1: General Summary Description including quantities]

[Lot 2: etc]

- 1.2 The Goods/Services [use as appropriate] shall fully conform to the detailed description set out in the Technical Specifications. (The Bid specifications amended as appropriate or alternative solution).

{Optional}

{1.3 This Contract includes the provision of:

1.3.1 Manufacturer's recommended spare parts for a period of _____ [state period] as set out in the Technical Specifications.

1.3.2 Accessories and Consumables necessary for normal operation of the goods during _____ [state period] as set out in the Technical Specifications.

1.3.3 Training, after-sales and maintenance services as set out in the Technical Specifications.}

Article 2: Delivery, Installation and Acceptance

- 2.1 The Goods shall be delivered to _____ [state address or addresses – specify for each lot] on a _____ [state whether FOB/CIF/delivered/Free Site etc by air/sea/railway/road transport] basis _____ (within [state period]) _____ (or by [state date]).

All packages must be marked as follows:

[indicate]

- 2.2 The Supplier shall be responsible for unpacking the Goods and making them ready for acceptance _____ (within [state period]) or _____ (before [state date]) or _____ (between/during [state calendar dates/months]).

[repeat for lots].

- 2.3 Delivery shall be subject to provisional and final acceptance by:

2.3.1 Provisional acceptance: _____ [state name and address]

2.3.2 Final acceptance: _____ [state name and address]

or their duly authorised representatives.

- 2.4 Provisional acceptance shall take place within _____ [state number of days or weeks] after the goods are delivered and, as appropriate, fully operational.

- 2.5 Final acceptance shall take place upon expiry of the warranty period, and shall be pronounced upon the condition that the goods supplied is found in full working order and comply with the Bid specifications. A Manufacturer's Inspection Certificate or Works-test certificate is required for all items.

Article 3: Price and Payment

- 3.1 The prices for the Goods/Services [*use as appropriate*] are specified in the Schedule of Prices. The total value of this Contract is _____ [*state amount and currency*], hereinafter referred to as the "Contract Price".
- 3.2 Payment shall be made in accordance with Articles 18,19 and 20 inclusive of the General Conditions of Contract.

Article 4: Law

The law of The Gambia shall govern the performance of the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed this date of _____ (date: day/month/year)

Binding Signature of Procuring Organisation: _____

(Printed Name and Title) _____

Binding Signature of Contractor: _____

(Printed Name and Title) _____

MANUFACTURER'S AUTHORISATION FORM

[NOTE: This letter of authority should be on the letterhead of the manufacturer and should be signed by a person with the authority to bind the Manufacturer when assurance is needed that the Bidder will be able to supply specified items. It should be included in the Bid by the Bidder.]

Date:

To: _____ *[insert Name and address of Procuring Organisation]*

Whereas _____ *[insert name of manufacturer]* who are established and reputable manufacturers of _____ *[insert name of goods]* having factories at _____ *[insert name of factories]* do hereby authorise _____ *[insert name of Bidder]* to submit a Bid, and subsequently negotiate and sign a contract with you against Bid No. _____ for the goods manufactured by us.

We confirm that _____ *[insert name of Bidder]* is an authorised agent/distributor for us in *[insert name of country or region]* and that we intend to supply goods of our manufacture to *[insert name of Bidder]* if they are awarded a contract resulting from this Bid.

We hereby extend our full guarantee and warranty in accordance with Clause 16 of the General Conditions of Contract for the goods tendered by _____ *[insert name of Bidder]* for supply and delivery against Bid No. _____.

Signature and Seal of Manufacturer