

GOVERNMENT OF NEPAL
MINISTRY OF PHYSICAL PLANNING AND WORKS
DEPARTMENT OF ROADS

BID DOCUMENT
FOR
SUPPLY AND DELIVERY OF EQUIPMENT
AND
SPARE PARTS (ICB)

“Hydraulic Excavator with Breaker”

CONTRACT NO.: RD/MB/EP/68-69/3

TENDER SUBMITTED BY:

(ON BEHALF OF) :.....

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Section I Invitation for Bids

Government of Nepal
Ministry of Physical Planning and Works
Department of Roads, Babarmahal, Kathmandu

First Publication Date: 26th January, 2012

Name of the Project: **Equipment Procurement**

Supply and Delivery of Equipment and Spare Parts

Contract No. : RD/MB/EP/68-69/3

1. Government of Nepal **has allocated** a fund for the **Procurement of Equipment** and, it intends to apply part of the proceeds of this fund to eligible payments under the contract for **supply and delivery of equipment and spare parts**.
2. The **Department of Roads, Mechanical Branch** invites sealed bids from registered suppliers or eligible foreign suppliers for the procurement of following Equipment and its Spare Parts:

| <u>Items</u> | <u>Quantity</u> | <u>Minimum Bid Security Amount</u> |
|--|-----------------|------------------------------------|
| Hydraulic Excavator with Breaker (20 Ton Class) | 1 unit | NRs. 3,50,000.00 |

3. Bidding will be conducted through the **International Competitive Bidding** procedures specified in GoN's Guidelines .
4. Interested eligible Bidders may obtain further information from **Department of Roads, Mechanical Branch** and inspect the Bidding documents at the address given below **during the office hours**.
5. A complete set of Bidding documents in English may be purchased **on or before 9 March, 2012** by interested Bidders on the submission of a written application accompanied by a letter of Authority from the Principal / Manufacturer to the address below and upon a payment of a nonrefundable fee **Rs. 3000/-** for a set (Two copies).
6. Bids must be delivered to the address below at or before **12:00 hours on or before 11 March, 2012**. Bids shall be valid for a period of **90 days** after the deadline of bid submission. All Bids must be accompanied by a bid security of amount mentioned above **NRs. 3,50,000.00** (or equivalent in convertible currency), **valid 30 days beyond Bid validity (9 July, 2012)**.
7. If the last day for purchasing and submission falls on a government holiday then the next working day shall be considered as the last day.
8. Bids received after the deadline of the submission will be rejected. Bids will be opened in the presence of the Bidders representatives who choose to attend at the address below **at 13:00 Hours on 11 March, 2012**.
9. Bank Guarantee issued by any finance company in any form will not be accepted.
10. Bids should comply in all respects with the Instruction to Bidder included in the Bid Document. **Non compliance with this instruction shall result in disqualification.**
11. **For further query, please contact the address below:**

The Department of Roads
Mechanical Branch, Babarmahal, Kathmandu
Tel: 4-262693 Ext: 2120, 2124 Fax: +977-1-4262510
Website: www.dor.gov.np Email: dormechb@dor.gov.np

Section II. Instructions to Bidders

A. Introduction

- 1. Scope of Bid**
 - 1.1 **Department of Roads, Mechanical Branch** (hereinafter referred to as the "Purchaser") wishes to receive Bids for supply and delivery of the Equipment (such goods hereinafter referred to as "Goods").
 - 1.2 All Bids are to be completed and returned to the Purchaser in accordance with these Instructions to Bidders.
- 2. Source of Funds**
 - 2.1 The Employer has received an amount indicated in the Bidding Data towards the cost of the Project specified in the Bidding Data, and the Employer intends to apply a part of the proceeds of this loan/credit/grant to eligible payments under the contract for which these bidding documents are issued
- 3. Eligible Bidders**
 - 3.1 This Invitation for Bids is open to all suppliers from Nepal, and from abroad.
 - 3.2 Bidders should not be associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by the Purchaser to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the equipment to be purchased under this Invitation for Bids.
- 4. Eligible Goods and Services**
 - 4.1 The Goods and Services to be supplied under the Contract (Such services hereinafter referred to as "Services" shall have their origin in eligible source countries (any country), and all expenditures made under the contract will be limited to such goods and services.
 - 4.2 For purposes of clause 4.1 above, "origin" shall be considered to be the place where the Goods are mined, grown or produced or from which the Services are provided. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially-recognized product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 4.3 The origin of goods and services is distinct from the nationality of the Bidder.
- 5. Cost of Bidding**
 - 5.1 The Bidder shall bear all costs associated with the preparation and delivery of its Bid, and the Purchaser named in the Bidding Data, hereafter referred to as "the Purchaser" will in no case be responsible or liable for those costs, regardless of the conduct or out come of the Bidding process.
- 6. Joint Venture**
 - 6.1 In the event the successful Bidder is a joint venture formed of two or more companies, the Purchaser requires that the parties to the joint ventures accepts joint and several liability for all obligations under the Contract.
- 7. Assurance**
 - 7.1 The successful Bidder will be required to give satisfactory assurance of its ability and intention to supply the Goods and Services pursuant to the Contract, within the time set forth therein.

B. The Bidding Documents

- 8. Content of Bidding Documents**
- 8.1 The required Goods and Services, bidding procedures, and contract terms are prescribed in the Bidding documents. In addition to the Invitation for Bids, the Bidding documents include:
1. Instructions to Bidders (ITB)
 2. Bidding Data
 3. General Conditions of Contract (GCC)
 4. Special Conditions of Contract (SCC)
 5. Schedule of Requirements
 6. Technical Specifications
 7. Bid Form and Price Schedules
 8. Bid Security Form
 9. Contract Form
 10. Performance Security Form
 11. Bank Guarantee Form for Advance Payment
 12. Manufacturer's Authorization Form.
- 8.2 The Bidder is expected to examine the Bidding Documents, including all instructions, forms, terms, specifications and drawings. Failure to furnish all information required by the Bidding documents or submission of a Bid not substantially responsive to the Bidding Documents in every respect will result in the rejection of the Bid.
- 9. Clarification of Bidding Documents**
- 9.1 Prospective Bidders requiring any further information or clarification of the Bidding documents may notify the Purchaser in writing by cable (hereinafter, the term *cable* is deemed to include facsimile) at the Purchaser's facsimile number indicated in the Invitation for Bids. The Purchaser will respond in writing to any request for information or clarification of the Bidding documents which it receives no later than fourteen (14) days prior to the deadline for the submission of Bids prescribed by the Purchaser. The Purchaser's response (including an explanation of the query) will be sent in writing or by cable to all prospective Bidders who have received the Bidding documents without giving source.
- 10. Amendment of Bidding Documents**
- 10.1 At any time prior to the deadline for submission of Bids, the Purchaser, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, or modify the Bidding documents by amendment.
- 10.2 The amendment shall be part of the Bidding Documents, pursuant to clause 8.1, will be notified in writing or by cable to all prospective Bidders who have received the Bidding Documents, and will be binding on them. Bidders will be required to acknowledge receipt of any such amendment to the Bidding Documents.
- 10.3 In order to allow prospective Bidders reasonable time in which to take the amendment into account in preparing their Bids, the Purchaser may, at its discretion, extend the deadline for the submission of Bids.

C. Preparation of Bids

- 11. Language of Bid**
- 11.1 The Bid prepared by the Bidder, and all correspondence and documents relating to the Bid exchanged by the Bidder and the Purchaser, shall be

written in the English language or as specified in Bidding Data. Any printed literature furnished by the Bidder may be in another language provided that this literature is accompanied by an English translation, in which case for purposes interpretation of the Bid, the English translation shall govern.

12. Documents Constituting the Bid

- 12.1 The Bid prepared by the Bidder shall comprise the following components:
- a. Bid Form and a Price Schedule completed in accordance with ITB Clauses 13, 14, and 15;
 - 13. documentary evidence established, in accordance with ITB Clause 16, that the Bidder is eligible to Bid and that the Goods and Services to be supplied by the Bidder are eligible under the contract;
 - 14. documentary evidence established in accordance with ITB Clause 17, that the Bidder is qualified to perform the contract if its Bid is accepted;
 - b. documentary evidence establishing, in accordance with ITB Clause 18, that the Goods and services to be supplied by the Bidder conform to the Bidding Documents; and
 - c. Bid security furnished in accordance to ITB Clause 19.

13. Bid Form

- 13.1 The Bidder shall complete the Bid Form and the appropriate Price Schedule furnished in the Bidding documents, indicating the goods to be supplied, a brief description of the goods, their country of origin, quantity and prices.
- 13.2 For the purpose of granting a margin of domestic preference, Bids will be classified in one of the three groups as follows:
- Group 1 Bids offering goods manufactured in Nepal, for which (i) labour, raw materials, and components from within Nepal account for more than thirty (30) percent of the EXW price; and (ii) and the production facility in which they will be manufactured or assembled has been engaged in manufacturing or assembling such goods at least since the date of Bid submission.
 - Group 2 All other Bids offering goods from within the country of the Purchaser.
 - Group 3 Bids offering goods of foreign origin to be imported by the Purchaser directly or through the Supplier's local agent.

14. Bid Prices

- 14.1 The Bidder shall complete the appropriate Price Schedule and the Summary of the Foreign Currency requirement and the sources of Goods schedules included herein, stating the unit prices, total cost per item, the total Bid amount and the expected countries of origin of the Goods to be supplied under the contract.
- 14.2 Prices quoted in the Price Schedules should be entered separately in the following manner:
- (a) Goods from outside Nepal,
 - (i) the price of the goods quoted EXW (ex works, ex factory, ex warehouse, ex showroom, or off-the-shelf, as applicable), including all customs duties and sales and other taxes

already paid or payable:

- (A) on the components and raw material used in the manufacture or assembly of goods quoted ex works or ex factory;
 - or**
 - (B) on the previously imported goods of foreign origin quoted ex warehouse, ex showroom, or off-the-shelf.
- (ii) any Purchaser country sales and other taxes which will be payable on the goods if the contract is awarded.
 - (iii) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination, if specified in the **Bidding Data**.
 - (iv) the price of other (incidental) services, if any, listed in the **Bidding Data**.
- (b) Goods from within Nepal:
- (i) the price of the goods shall be quoted CIF named port of destination, or CIP border point, or CIP named place of destination, in Nepal, as specified in the **Bidding Data**. In quoting the price, the Bidder shall be free to use transportation through carriers registered in any eligible countries. Similarly, the Bidder may obtain insurance services from any eligible source country.
 - (ii) the price of the goods quoted FOB port of shipment (or FCA, as the case may be), if specified in the **Bidding Data**.
 - (iii) the price of goods quoted CFR port of destination (or CPT as the case may be), if specified in the **Bidding Data**.
 - (iv) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods from the port of entry to their final destination, if specified in the **Bidding Data**.
 - (v) the price of other (incidental) services, if any, listed in the **Bidding Data**.
- (c) Services

14.3 Price quoted by the Bidder shall remain fixed and valid until completion of the contract performance and will not be subject to variation on any account, unless otherwise specified in the Bidding Data. A Bid submitted with an adjustable price quotation will be treated as nonresponsive and will be rejected, pursuant to ITB clause 28. If however, in accordance with the Bidding Data, prices quoted by the Bidder shall be subject to adjustment during the performance of the contract, a Bid submitted with a fixed price quotation will not be rejected, but the price adjustment will be treated as zero.

15. Bid Currencies

15.1 Prices shall be quoted in the following currencies:

- a. For goods and services that the Bidder will supply from within Nepal, the prices shall be quoted in Nepali Rupees, unless otherwise specified in the Bidding Data.
- b. For goods and services that the Bidder will supply from outside Nepal, the price shall be quoted in any convertible currency. If the

Bidder wishes to be paid in a combination of amounts in different currencies, it may quote its price accordingly but use no more than three currencies.

- c. if some of the contract expenditures related to the services pursuant to ITB Clause 14.2(C) are to be incurred in Nepal, such expenditures should be expressed and will be payable in Nepali Rupees.

16. Documents Establishing Eligibility of the Bidders and the Goods and Services

- 16.1 The Bidder shall furnish, as part of its Bid, certification establishing that the Bidder is eligible to Bid and that the origin of the Goods and the Services is from eligible source country, pursuant to ITB Clauses 3 and 4.

17. Documents Establishing the Bidding's Qualifications to Perform the Contract

- 17.1 The documentary evidence of the Bidder's qualifications to perform the contract, if its Bid is accepted, shall establish to the Purchaser's satisfaction:
- a. that, in the case of a Bidder offering to supply Goods under the contract which the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorised by the Goods' Manufacturer or Producer to supply and install the Goods in Nepal;
 - b. that the Bidder has the financial, technical and production capability necessary to perform the contract, including capacity in terms of personnel for the purpose of carrying out the services; and
 - c. that, in the case of a Bidder not doing business within Nepal, the Bidder is, or will be (if the contract is awarded to it), represented by an agent in Nepal equipped and able to carry out the maintenance, repair and spare parts stocking obligations prescribed in the Conditions of Contract and/or Technical Specifications and
 - d. that the Bidder meets the qualification criteria listed in Bidding Data.

18. Documents Establishing the Good's Conformity to the Bidding Documents

- 18.1 Pursuant to ITB Clause 12, the Bidder shall furnish, as part of its Bid, documents establishing the eligibility and conformity to the Bidding documents of all goods and services which the Bidder proposes to supply under the contract.
- 18.2 The documentary evidence of the eligibility of the goods and services shall consist of a statement in the Price Schedule of the country of origin of the goods and services offered which shall be confirmed by a certificate of origin issued at the time of shipment.
- 18.3 The documentary evidence of the conformity of Goods and Services to the Bidding Documents may be in the form of literature, drawings and data and shall consists of:
- a. a detailed description of the essential technical and performance characteristics of the goods;
 - b. a list, giving full particulars, including available sources and current prices, of all spare parts, special tools, etc, necessary for the proper and continuing functioning of the Goods for a period to be specified in the Bidding Data, following commencement of the use of the goods by the Purchaser; and
 - c. an item by item commentary and the Technical Specifications

demonstrating substantial responsiveness of the goods and services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications;

- d. a detailed schedule of execution of works under the contract (work schedule), outlining key activities and the critical items on the schedule which could influence the contract completion data.

18.4 For the purposes of the commentary to be furnished pursuant to ITB 18.3 (c) above, the Bidder shall note that standards for workmanship, material, and Equipment, as well as references to brand names or catalogue numbers designated by the Purchaser in its Technical Specifications, are intended to be descriptive only and not restrictive. The Bidder may substitute alternative standard, brand names, and/or catalogue numbers in its Bid, provided that it demonstrates to the Purchaser's satisfaction that the substitutions are equivalent or superior to designated in the Technical Specifications, except if the Technical Specifications specifically provide otherwise.

19. Bid Security

19.1 Pursuant to ITB Clause 12, the Bidder shall furnish, as part of its Bid, a Bid security in the amount specified in the **Bidding Data**.

19.2 The Bid security is required to protect the Purchaser against the risk of Bidder's conduct which would warrant the security's forfeiture, pursuant to ITB Clause 36 and 37.

19.3 The Bid security shall be denominated in the currency of the Bid or in another freely convertible currency, and shall be valid for thirty (30) days beyond the validity of the Bid. The Bid Security shall, at the Bidder's option, be in the form of earnest money, bank draft, or a bank guarantee from a reputable bank in Nepal acceptable to the Employer or from a reputable foreign bank selected by the Bidder and endorsed by the local bank in Nepal acceptable to the Employer. The format of the bank guarantee shall be in accordance with the form of bid security included in Section IX; other formats may be permitted, subject to the prior approval of the Employer.

19.4 Any Bid not secured in accordance with ITB Clauses 19.1 and 19.3 above will be rejected by the Purchaser as non-responsive, pursuant to ITB Clause 28.

19.5 Unsuccessful Bidders' Bid securities will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of Bid validity prescribed by the Purchaser pursuant to ITB Clause 20.

19.6 The successful Bidder's Bid security will be discharged or returned, or both, upon the Bidder signing the contract, pursuant to ITB Clause 36, and furnishing the performance security pursuant to ITB Clause 37.

19.7 The Bid security may be forfeited:

- (a) if a Bidder:
 - (i) withdraws its Bid during the period of Bid validity specified by the Bidder on the Bid Form, or
 - (ii) does not accept the correction of errors pursuant to ITB Clause 28.2; or
- (b) in the case of a successful Bidder, if the Bidder fails:

- (i) to sign the contract in accordance with ITB Clause 38; or
- (ii) to furnish the performance security in accordance with ITB Clause 39.

20. Period of Validity of Bids

- 20.1 Bids shall remain valid for the period specified in the **Bidding Data** after the date of Bid submission prescribed by the Purchaser, pursuant to ITB Clause 23.
- 20.2 In exceptional circumstances, the Purchaser may solicit Bidder's consent to an extension of the period of Bid validity. The request and the responses thereto shall be made in writing (or by cable). If the Bidder agrees to the extension request, the validity of the Bid security provided under ITB Clause 19 shall also be suitably extended. A Bidder may refuse the request without forfeiting its Bid security. A Bidder granting the request will not be required nor permitted to modify its Bid.

21. Format and Signing of Bid

- 21.1 The Original Bid Form as accompanying documents (as specified in ITB Clause 12), clearly marked "Original", plus (number) copy or copies of Bid shall be relieved by the Purchaser at the date, time and place specified pursuant to ITB Clauses 22 and 23. In the event of any discrepancy between the original and the copies, the original shall govern.
- 21.2 The original and copy or copies of Bid shall be typed or written in indelible ink and shall be signed by the Bidder or a person or persons duly authorized to sign on behalf of the Bidder. Such Authorization shall be indicated by written power-of-attorney accompanying the Bid. All pages of Bid except for unamended printed literature, shall be initialed by the person or persons signing the Bid. The name and position held by each person signing shall be typed and printed below the signature.
- 21.3 Any interlineation, erasures, or overwriting shall be valid only if they are initialed by the person or persons signing the Bid.
- 21.4 The Bidder shall furnish information as described in the Form of Bid on commissions or gratuities, if any, paid or to be paid to agents relating to this Bid, and to contract execution if the Bidder is awarded the contract.

D. Submission of Bids

22. Sealing and Marking of Bids

- 22.1 The Bidder shall seal the original and each copy of the Bid in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope.
- 22.2 The inner and outer envelopes shall:
 - a. be addressed to the Purchaser at the address given in the **Bidding Data**; and
 - b. bear the Project name indicated in the Bidding Data, the Invitation for Bids title and number indicated in the Bidding Data, and a statement: "DO NOT OPEN BEFORE," to be completed with the time and the date specified in the **Bidding Data**, pursuant to ITB Clause 24.
- 22.3 The inner envelopes shall also indicate the name and address of the Bidder to enable the Bid to be returned unopened in case it is declared "late."

- 22.4 If the outer envelope is not sealed and marked as required by ITB Clauses 22.1 and 22.2, the Purchaser will assume no responsibility for the Bid's misplacement or premature opening.
- 23. Deadline for Submission of Bids**
- 23.1 The Original Bid, together with the required copies, must be received by the Purchaser at the address specified under ITB Clause 22.2 no later than the time and date specified in the Bidding Data.
- 23.2 The Purchaser may, at its discretion, extend this deadline for the submission of Bids by amending the Bidding documents in accordance with ITB Clause 10, in which case all rights and obligations of the Purchaser and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended.
- 24. Late Bids**
- 24.1 Any Bid received by the Purchaser after the deadline for submission of Bids prescribed by the Purchaser, pursuant to ITB Clause 23, will be declared "Late" and rejected and returned unopened to the Bidder.
- 25. Modification and Withdrawal of Bids**
- 25.1 The Bidder may modify or withdraw its Bid after the Bid's submission, provided that written notice of the modification or withdrawal is received by the Purchaser prior to the deadline prescribed for submission of Bids.
- 25.2 The Bidder's modification or withdrawal notice shall be prepared, sealed, and marked and dispatched in accordance with the provisions of ITB Clause 22. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy.
- 25.3 No Bid may be modified after the deadline for submission of Bids.
- 25.4 No Bid may be withdrawn in the interval between the deadline for submission of Bids and the expiration of the period of Bid validity specified by the Bidder on the Bid Form. Withdrawal of a Bid during this interval may result in the Bidder's forfeiture of its Bid security, pursuant to the ITB Clause 19.7a(i).

E. Opening and Evaluation of Bids

- 26. Opening of Bids by the Purchaser**
- 26.1 The Purchaser will open all Bids in the presence of Bidders' Representatives who choose to attend, at the time, on the date, and at the place specified in the **Bidding Data**. The Bidders' Representatives who are present shall sign a register evidencing their attendance.
- 26.2 The Bidders' names, Bid modifications or withdrawals, Bid prices, discounts, and the presence or absence of requisite Bid security and such other details as the Purchaser, at its discretion, may consider appropriate, will be announced and recorded at the opening. No Bid shall be rejected at Bid opening, except for late Bids, which shall be returned unopened to the Bidder pursuant to ITB Clause 24.
- 26.3 Bids (and modifications sent pursuant to ITB Clause 25.2) that are not opened and read out at Bid opening shall not be considered further for evaluation, irrespective of the circumstances.
- 26.4 The Purchaser will prepare minutes of the Bid opening.
- 27. Clarification of Bids**
- 27.1 To assist in the examination, evaluation and comparison of Bids, the Purchaser may, at its discretion, ask the Bidder for a clarification of its Bid. The request for clarification and the response to it shall be in

writing, and no change in the prices and substance of the Bid shall be sought, offered, or permitted.

28. Preliminary Examination

- 28.1 The Purchaser will examine the Bids to determine whether they are complete, whether any computational errors have been made, whether required sureties have been furnished, whether the documents have been properly signed, and whether the Bids are generally in order.
- 28.2 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 quantity, the unit price shall prevail, and the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail. If the Supplier does not accept the correction of the errors, its Bid will be rejected, and its Bid security may be forfeited.
- 28.3 Prior to the detailed evaluation, pursuant to ITB Clause 30, the Purchaser will determine the substantial responsiveness of each Bid to the Bidding documents. A substantially responsive Bid is one which conforms to all the terms and conditions of the Bidding Documents without material deviations. Deviations from, or objections or reservations to critical provisions, **such as** those concerning Bid Security (ITB Clause 19), Applicable Law (GCC Clause 31), and Taxes and Duties (GCC Clause 33), will be deemed to be a material deviation. The Purchaser's determination of a Bid's responsiveness is to be based on the contents of the Bid itself without recourse to extrinsic evidence.
- 28.4 The Purchaser 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.
- 28.5 If a Bid is not substantially responsive, it will be rejected by the Purchaser and may not subsequently be made responsive by the Bidder by correction of the nonconformity.

29. Conversion to Single Currency

- 29.1 To facilitate evaluation and comparison, the Purchaser will convert all Bid prices expressed in the amounts in various currencies, in which the Bid prices are payable, to Nepali Rupees at the selling exchange rate established by Nepal Rastra Bank for similar transactions on the date as specified in the Bidding Data.

30. Evaluation and Comparison of Bids

- 30.1 The Purchaser will evaluate and compare the Bids which have been determined to be substantially responsive, pursuant to ITB Clause 28.
- 30.2 The Purchaser's evaluation of a Bid will exclude and not take into account:
- a. in the case of goods partially or wholly manufactured within Nepal, sales and other similar taxes, which may be levied on the finished goods if the contract is awarded to the Bidder;
 - b. in the case of wholly imported goods offered ex-warehouse or off the self from Nepal, import duties and taxes paid or payable in Nepal plus sales and other similar taxes which may be levied on the finished goods if the Contract is awarded to the Bidder;
 - c. in the case of goods of foreign origin offered from abroad, customs duties and other similar import taxes which will be levied on the goods if the contract is awarded to the Bidder; and
 - d. any allowance for price adjustment during the period of execution of the contract, if provided in the Bid.

- 30.3 The comparison shall be between the EXW price of the goods offered from within Nepal, such price to include all costs, as well as duties and taxes paid or payable on components and raw material incorporated or to be incorporated in the goods, and the CIF named port of destination (or CIP border point, or CIP named place of destination) price of the goods offered from outside Nepal.
- 30.4 The Purchaser's evaluation of a Bid will take into account, in addition to the Bid price the following factors in the manner and to the extent as specified in the **Bidding Data**
- a. cost of inland transportation, insurance, and other costs within Nepal incidental to delivery of the goods to their final destination.
 - b. delivery schedule offered in the Bid;
 - c. deviations in payment schedule from that specified in the Special Conditions of Contract;
 - d. the cost of components, special tools, spare parts, and service;
 - e. the availability in Nepal of spare parts and after-sales services for the Equipment offered in the Bid;
 - f. the projected operating and maintenance costs during the life of the Equipment;
 - g. the performance and productivity of the Equipment offered; and/or
 - h. other specific criteria indicated in the **Bidding Data** and/or in the Technical Specifications.
- 30.5 Comparison of Bids will be between the main Bids only. In the event that the alternative Bid, if any, of the Bidder whose main Bid is the lowest evaluated is considered more advantageous than its main Bid, such alternative Bid may be considered.
- 30.6 For factors retained in the Bidding Data pursuant to ITB 30.4, one or more of the following quantification methods will be applied, as detailed in the Bidding Data:
- a. *Inland transportation from EXW/port of entry/border point, insurance, and incidentals.*

Inland transportation, insurance, and other incidental costs for delivery of the goods from EXW/port of entry/border point to Project Site named in the **Bidding Data** will be computed for each Bid by the Purchaser on the basis of published tariffs by the rail or road transport agencies, insurance companies, and/or other appropriate sources. To facilitate such computation, Bidder shall furnish in its Bid the estimated dimensions and shipping weight and the approximate EXW/CIF (or CIP border point) value of each package. The above cost will be added by the Purchaser to EXW/CIF/CIP border point price.
 - b. *Delivery schedule.*
 - (i) The Purchaser requires that the goods under the Invitation for Bids shall be delivered (shipped) at the time specified in the Schedule of Requirements. The estimated time of arrival of the goods at the Project Site will be calculated for each Bid after allowing for reasonable international and inland transportation time. Treating the Bid resulting in the

earliest time of arrival as the base, a delivery “adjustment” will be calculated for other Bids by applying a percentage, specified in the **Bidding Data**, of the EXW/CIF/CIP price for each week of delay beyond the base, and this will be added to the Bid price for evaluation. No credit shall be given to early delivery.

or

(ii) The goods covered under this invitation are required to be delivered (shipped) within an acceptable range of weeks specified in the Schedule of Requirement. No credit will be given to earlier deliveries, and Bids offering delivery beyond this range will be treated as nonresponsive. Within this acceptable range, an adjustment per week, as specified in the **Bidding Data**, will be added for evaluation to the Bid price of Bids offering deliveries later than the earliest delivery period specified in the Schedule of Requirements.

or

(iii) The goods covered under this invitation are required to be delivered (shipped) in partial shipments, as specified in the Schedule of Requirements. Bids offering deliveries earlier or later than the specified deliveries will be adjusted in the evaluation by adding to the Bid price a factor equal to a percentage, specified in the **Bidding Data**, of EXW/CIF/CIP price per week of variation from the specified delivery schedule.

c. *Deviation in payment schedule.*

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

or

(ii) The SCC stipulate the payment schedule offered by the Purchaser. If a Bid deviates from the schedule and if such deviation is considered acceptable to the Purchaser, the Bid will be evaluated by calculating interest earned for any earlier payments involved in the terms outlined in the Bid as compared with those stipulated in this invitation, at the rate per annum specified in the **Bidding Data**.

d. *Cost of spare parts.*

(i) The list of items and quantities of major assemblies, components, and selected spare parts, likely to be required during the initial period of operation specified in the **Bidding Data**, is annexed to the Technical Specifications. The total cost of these items, at the unit prices quoted in each Bid, will be added to the Bid price.

or

(ii) The Purchaser will draw up a list of high-usage and high-value items of components and spare parts, along with estimated quantities of usage in the initial period of operation specified in the **Bidding Data**. The total cost of these items and quantities will be computed from spare parts unit prices submitted by the Bidder and added to the Bid price.

or

(iii) The Purchaser will estimate the cost of spare parts usage in

the initial period of operation specified in the **Bidding Data**, based on information furnished by each Bidder, as well as on past experience of the Purchaser or other Purchasers in similar situations. Such costs shall be added to the Bid price for evaluation.

e. *Spare parts and after sales service facilities in Nepal.*

The cost to the Purchaser of establishing the minimum service facilities and parts inventories, as outlined in the **Bidding Data** or elsewhere in the Bidding documents, if quoted separately, shall be added to the Bid price.

f. *Operating and maintenance costs.*

Since the operating and maintenance costs of the goods under procurement form a major part of the life cycle cost of the Equipment, these costs will be evaluated in accordance with the criteria specified in the **Bidding Data** or in the Technical Specifications.

g. *Performance and productivity of the Equipment.*

(i) Bidders shall state the guaranteed performance or efficiency in response to the Technical Specification. For each drop in the performance or efficiency below the norm of 100, an adjustment for an amount specified in the **Bidding Data** will be added to the Bid price, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in the **Bidding Data** or in the Technical Specifications.

or

(ii) Goods offered shall have a minimum productivity specified under the relevant provision in the Technical Specifications to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the Bid, and adjustment will be added to the Bid price using the methodology specified in the **Bidding Data** or in the Technical Specifications.

h. *Specific additional criteria*

Other specific additional criteria to be considered in the evaluation and the evaluation method shall be detailed in the **Bidding Data** and/or the Technical Specifications.

31. Domestic Preference

31.1 If the **Bidding Data** so specifies, the Purchaser will grant a margin of preference to goods manufactured in Nepal for the purpose of Bid comparison, in accordance with the procedures outlined in subsequent paragraphs, provided the Bidder shall have established to the satisfaction of the Purchaser and of the Donor Agency that its Bid complies with the criteria specified in ITB Clause 13.2.

31.2 The Purchaser will first review the Bids to confirm the appropriateness of, and to modify as necessary, the Bid group classification to which Bidders assigned their Bids in preparing their Bid Forms and Price Schedules, pursuant to ITB Clauses 13 and 14.

31.3 All evaluated Bids in each group will then be compared among themselves to determine the lowest evaluated Bid of each group. The lowest evaluated Bid of each group will next be compared with the lowest evaluated Bids of the other groups. If this comparison results in a Bid from Group A or Group B being the lowest, it will be selected for contract

award.

31.4 If, as a result of the preceding comparison, the lowest evaluated Bid is from Group C, all Group C Bids will then 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:

a. the amount of customs duties and other import taxes that a nonexempt importer would have to pay for the importation of goods offered in each Group C Bid;

or

fifteen (15) percent of the CIF (or CIP border point or CIP named place of destination, as the case may be) Bid price of such goods, if the customs duties and taxes exceed fifteen (15) percent of the CIF (or CIP border point or CIP place of destination) price of such goods.

If the Group A Bid in the further comparison is the lowest, it will be selected for award. If not, the lowest evaluated Bid from Group C, as determined from the comparison under ITB Clause 31.3 above, will be selected for award.

32. Contacting the Purchaser

32.1 From the time of Bid opening to the time of contract award, if any Bidder wishes to contact the Purchaser on any matter related to the Bid, it should do so in writing.

32.2 Any effort by a Bidder to influence the Purchaser in its decisions on Bid evaluation, Bid comparison, or contract award may result in the rejection of the Bidder's Bid.

F. Award of Contract

33. Post-qualification

33.1 In the absence of prequalification, the Purchaser will determine to its satisfaction whether the Bidder that is selected as having submitted the lowest evaluated responsive Bid is qualified to perform the contract satisfactorily, in accordance with the criteria listed in ITB Clause 17.1.

33.2 The determination will take into account the Bidder's financial, technical, and production capabilities. It will be based upon an examination of the documentary evidence of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Clause 17.1, as well as such other information as the Purchaser deems necessary and appropriate.

33.3 To verify its technical and production capability the Bidder shall provide with its Bid documentary evidence that the items offered have been in production and have been in satisfactory operation as specified in Bidding Data.

33.4 An affirmative determination will be a prerequisite for award of the contract to the Bidder. A negative determination will result in rejection of the Bidder's Bid, in which event the Purchaser will proceed to the next lowest evaluated Bid to make a similar determination of that Bidder's capabilities to perform satisfactorily.

34. Award Criteria

34.1 Subject to ITB Clause 36, the Purchaser will award the contract to the successful Bidder whose Bid has been determined to be substantially responsive and has been determined to be the lowest evaluated Bid, provided further that the Bidder is determined to be qualified to perform the contract satisfactorily.

- 35. Purchaser's Right to Vary Quantities at Time of Award**
- 35.1 The Purchaser reserves the right at the time of contract award to increase or decrease, by the percentage indicated in the **Bidding Data**, the quantity of goods and services originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
- 36. Purchaser's Right to Accept Any Bid and to Reject Any or All Bids**
- 36.1 The Purchaser reserves the right to accept or reject any Bid, and to annul the Bidding process and reject all Bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders or any obligation to inform the affected Bidder or Bidders.
- 37. Notification of Award**
- 37.1 Prior to the expiration of the period of Bid validity, the Purchaser will notify the successful Bidder in writing by registered letter or by cable, to be confirmed in writing by registered letter or by cable, that its Bid has been accepted and on which basis the Bid has been accepted.
- 37.2 The notification of award will constitute the formation of the Contract.
- 37.3 Upon the successful Bidder's furnishing of the performance security pursuant to ITB Clause 39, the Purchaser will promptly notify the name of the winning Bidder to each unsuccessful Bidder and will discharge its Bid security, pursuant to ITB Clause 19.
- 37.4 If, after notification of award, a Bidder wishes to ascertain the grounds on which its Bid was not selected, it should address its request to the Purchaser. The Purchaser will promptly respond in writing to the unsuccessful Bidder.
- 38. Signing of Contract**
- 38.1 At the time of notification of award, the Purchaser will send the successful Bidder the Contract Form provided in the Bidding documents, incorporating all agreements between the parties.
- 38.2 Within fourteen (14) days of receipt of the Contract Form, the successful Bidder shall sign and date the contract and return it to the Purchaser
- 39. Performance Security**
- 39.1 Within fourteen (14) days of the receipt of notification of award from the Purchaser, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the Bidding documents, or in another form acceptable to the Purchaser.
- 39.2 Failure of the successful Bidder to comply with the requirement of ITB Clause 38.2 or ITB Clause 39.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Bid security, in which event the Purchaser may make the award to the next lowest evaluated Bidder or call for new Bids.
- 40. Corrupt or Fraudulent Practices**
- 40.1 Government of Nepal/Donor Agency requires that Borrowers (including beneficiaries of Donor Agency loans), as well as Bidders/Suppliers/Contractors under Donor-funded contracts, observe the highest standard of ethics during the procurement and execution of such contracts. In pursuance of this policy, the Donor Agency/GoN:
- a. defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract

execution; and

- (ii) “fraudulent practice” means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the GoN, and includes collusive practice among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial non-competitive levels and to deprive the Borrower of the benefits of free and open competition;

15. will reject a proposal for award if it determines that the Bidder recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

- (c) will declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded a GoN/Donor-funded contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a GoN/Donor-funded contract.

40.2 Furthermore, Bidders shall be aware of the provision stated in Clauses 5.4 and 24.1 of the General Conditions of Contract.

Section III Bidding Data

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

| Introduction | |
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| ITB 1.1 | Name of Borrower: Government of Nepal Loan/Credit/Grant number:* GoN, Development Budget (BH.No.337162/4) |
| ITB 2.1 | Name of Project: Equipment Procurement Name of Contract: RD/MB/EP/68-69/3 Supply and Delivery of Equipment and Spare Parts |
| ITB 5.1 | Name of Purchaser : Department of Roads, Mechanical Branch |
| ITB 9.1 | Purchaser's address, telephone, and facsimile numbers. Babarmahal, Kathmandu, Nepal. Tel: +977-1-4262693, Fax: +977-1-4262510 |
| ITB 11.1 | Language of the Bid: English |
| ITB 12.1 | The Bidder shall submit with its Bid the following additional documents: a) Manufacturer's authorization(s) (Such authorization letter shall be furnished in accordance to the sample format of bid document). b) Detailed Technical Specifications / Catalogues / Leaflet etc., including performance curve and operating characteristics. (All such technical catalogues, charts etc. must be manufacturer's standard publications, without any alterations). c) Statement and disclosure of local agent (if any), as specified in ITB 17.1(c). (A local agent bidding on behalf of the Supplier shall also furnish Agency registration, VAT registration and Income tax clearance certificates) d) Bid security furnished in accordance to ITB Clause 19 e) All other necessary documents as indicated in ITB 17.1(d) |
| ITB 13.1 | Alternative Bid shall not be permitted. |
| Bid Price and Currency | |
| ITB 14.2 (a) (iii), (iv) (optional) | The price quoted shall be CIP site delivery price, to be quoted in a manner as indicated in Price schedule (for goods offered from abroad) of the bid document. For such CIP site price quoted in the case of Equipment from overseas the seller should take the responsibility for clearing at Port of discharge and Nepalese border customs and transportation and delivering it to site. All such costs incurred should be included in the CIP site price. The prices of the spare parts shall be quoted as specified in the SPARE PARTS APPENDIX. The bidder shall not include in his price customs duty, VAT, or any other local taxes, that is collected by Government of Nepal on the equipment as a consignment, if any. In case of supplies from India, the bidder should quote in Indian Currency. If Excise Duty is applicable, goods should be supplied in Duty Refundable Procedures (DRP). |
| ITB 14.2 (b) (i) (ii),(iii) (optional) | Not applicable |

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| (iv), (v) (optional) | |
| ITB 14.3 | The price shall be <i>fixed</i> . |
| Preparation and Submission of Bids | |
| ITB 17.1 (c) | <p>Statement and disclosure of local agent:</p> <ol style="list-style-type: none"> a. A foreign Bidder wishing to have or already having a local agent should state the following: <ol style="list-style-type: none"> i. Name and address of the agent/representative. ii. Amount of commission, the agent representative is entitled to get, currency of payment and mode of payment. iii. Other agreement with agent/representative, if any. iv. Local Agent's PAN Registration Certificate and Agency declaration letter. b. If the bid has been submitted stating that no local agent has been appointed and later on it is found that local agent had been appointed or if it is proved that the amount of commission stated is less than the actual amount then the bidder will be fined an amount equivalent to the amount to be received by the agent and action will be taken as per the Public Procurement Act (GoN). |
| ITB 17.1 (d) | <p>Qualification requirements:</p> <ol style="list-style-type: none"> a) <i>Pursuant to ITB 1.2, the bidder shall furnish, as part of its bid, documents establishing the eligibility and conformity to the bidding documents of all Equipment and services which the bidder proposes to supply under the contract.</i> b) <i>Bids submitted by an agent other than the manufacturer shall be accompanied a letter certified by the manufacturer stating that the Bidder is the authorized agent of the said manufacturer for this bid. The letter of authorization should clearly state the extent of power delegated to such agent with respect to price quotation and negotiation. The principal / manufacturer is bound to honor any commitment of whatever nature made by his agent so authorized on behalf of his principal.</i> c) <i>The equipment offered shall be of latest model under standard production and should be in production for a minimum 1 year.</i> d) <i>The bidder is required to submit documentary evidence showing that s/he has already supplied at least 10 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 5 years.</i> e) <i>The Bidder is required to state clearly the specifications of his proposed equipment, if any. Compliance with or variation from the departmental requirement of the technical specifications shall be duly filled in and signed in the offered specification column of the technical Specification supported by relevant Technical Catalogues/ Leaflets of the offered Equipment. Any such information not provided or withheld will be taken as compliance with the specifications.</i> f) <i>The Bidder is required to submit detailed specifications catalogues and/or photographs, performance curve and operating characteristics. All such technical catalogues, charts etc. shall be manufacturer's standard publications, without any alterations. Each and every</i> |

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| | <p><i>document, including the catalogues, brochures etc., must be indexed and referenced.</i></p> <p><i>g) The bidder shall quote all items applicable to offered equipment of the spare parts Appendix of the bid document. If any of the items listed in the spare parts Appendix happens to be non-applicable, the bidder must clearly state them as non-applicable. Moreover, the bidder should also fill in part number and other details as specified in the Spare parts Appendix. The bidder, at the same time, has to submit a photocopy of the relevant pages of spare parts manual applicable to the offered equipment. Noncompliance with the above requirement shall result in disqualification.</i></p> <p><i>h) The bidder shall submit a list of standard Accessories and cost of such accessories should be included in bid price.</i></p> <p><i>i) Any additional terms and conditions contradictory to those stipulated in the bid document and which might involve hidden additional financial liabilities on the Purchaser's side shall not be included.</i></p> <p><i>j) No bid will be considered if the offered quantity is different from that specified in the Technical Specification.</i></p> <p><i>k) An agent can submit bids on behalf of more than one manufacturer but separate complete bids including bid security shall be submitted for each manufacturer.</i></p> <p><i>l) The Bidder must sign the Bid Form, Bid Data Sheet and the Price Schedules of the Bid Document. Any erasures or change shall be initiated by the person signing the Bid.</i></p> |
| ITB 19.1 | <p>Amount of Bid security: NRs. 3,50,000.00 (or equivalent in convertible currency)</p> <p><i>The bid security shall valid till 9 July, 2012 (30 days beyond the bid validity) and to be furnished in a format as specified in "Bid Security Form" of the bid document. Bid security shall be acceptable in any of the following forms:</i></p> <ol style="list-style-type: none"> <i>1. A Bid guarantee issued/guaranteed by Nepal Rastra Bank or any Bank in Nepal recognized by the Nepal Rastra Bank, Kathmandu.</i> <p><i>Or</i></p> <ol style="list-style-type: none"> <i>2. A receipt for cash deposit with Nepal Rastra Bank, Kathmandu Account No. 131235 on behalf of Department of Roads, Mechanical Branch, Babar Mahal.</i> <p><i>Any charges, bank or otherwise, incurred in furnishing the bid security shall be for the account of the Bidder. The Bidding Guarantee shall be payable in the currency of the bid or in Nepalese Rupees. The successful bidder may be required to extend the validity of the bid security up to the time when the performance bond is furnished. Bid securities will be returned to the unsuccessful bidders.</i></p> |
| ITB 20.1 | Bid validity period : 90 (Ninty) days |
| ITB 22.1 | Number of copies: Two |
| ITB 22.2 (a) | Address for Bid submission: Department of Roads, Mechanical Branch, Babarmahal. Kathmandu, Nepal. |
| ITB 22.2 (b) | IFB title and number: RD/MB/EP/68-69/3 |
| ITB 23.1 | Deadline for Bid submission: 12:00 hrs on 11 March, 2012 |
| ITB 26.1 | Time, date, and place for Bid opening. At 13:00 hrs on 11 March, 2012, Department of Roads, Mechanical Branch, |

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| | Babarmahal, Kathmandu (Same day of Bid submission deadline) |
| ITB 28.3 | <p>Bids shall be considered non-responsive, if;</p> <ul style="list-style-type: none"> a) <i>The bid is not submitted in the bid document issued by the department.</i> b) <i>The bid is not submitted in the complete Bid Document issued in the name of the Bidder himself.</i> c) <i>The bid is not sealed.</i> d) <i>The bid is not submitted with the Bid Form duly filled and signed in the complete document.</i> e) <i>The bid is not submitted within the specified date / time for submission of bids.</i> f) <i>The bid is not submitted along with the Bid security as specified in ITB 19.1.</i> g) <i>The bid is submitted without the information as specified in ITB 17.1(c).</i> h) <i>The bid is submitted without the information with supporting documents as specified in ITB 17.1(d).</i> i) <i>The bid does not comply with the instructions as specified in the Invitation for bid.</i> i) <i>Terms of payment and Destination of Delivery of the Equipment supplied are different from those specified in the Bid Document.</i> j) <i>All prices quoted are not either firm (not estimated one) or conditional or valid for the period specified in the Bid Document.</i> k) <i>There is a major deviation in specification of the equipment proposed by the bidder from that specified in the technical specifications.</i> |
| Bid Evaluation | |
| ITB 29.1 | <p>Currency chosen for the purpose of converting to a common currency: Nepali Rupees</p> <p>Source of exchange rate: Nepal Rastra Bank</p> <p>Date of exchange rate: Date of bid opening</p> |
| ITB 30.4 | <p>Criteria for Bid evaluation.</p> <p>The evaluation of a bid will exclude and will not take into account</p> <ul style="list-style-type: none"> i) Custom duties and other similar import taxes which will be payable on the Equipment if the contract is awarded to the bidder, and ii) Any conditional allowance for price adjustment provided in the bid. <p>The Purchaser will evaluate Bid based upon the Total Bid price (Total CIP site delivery price to final destination) for the equipment including Spare parts and provision of Incidental Services. And in addition the following factors shall be considered, in the manner as indicated.</p> |

| | |
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| | <p><i>i. Delivery schedule offered in the Bid (as specified in ITB 30.4-b)</i></p> <p><i>ii. The cost of Spare Parts (Appendix).</i></p> |
| ITB 30.4 (a) | Inland transportation and insurance and incidentals from port of discharge to entry border point and to final delivery site, Department of Roads, Heavy Equipment Division, Hetauda, Nepal |
| ITB 30.4 (b) | <p>Delivery schedule. 120 days (As stated in Schedule of requirements Section VI). Acceptable range: 30 days</p> <p>The Equipment under the invitation for bids shall be delivered at the time specified in the schedule of requirement. A delivery "adjustment" will be calculated for the bids at the rate of one twentieth of one percent (0.05%) of the CIP site (final destination) price for each day of delay beyond the time specified in the Schedule of requirements within the acceptable range, and this will be added to the total bid price for the purpose of the evaluation. No credit shall be given for early delivery and bids offering delivery beyond the acceptable range shall be treated as NON RESPONSIVE.</p> |
| ITB 30.4 (c) | Not Applicable |
| ITB 30.4 (d) | The Department shall list fast moving items of Spare Parts in the Spare Parts Appendix. The CIP site price of all applicable parts of the Spare Parts Appendix shall be added to the Total Bid Price of the Equipment. |
| ITB 30.4 (e) | Not Applicable for financial evaluation. However, availability of after sales service is required as specified in ITB 17.1 (d). |
| ITB 30.4 (f) | Not Applicable |
| ITB 30.4 (g) | Not Applicable |
| ITB 30.4 (h) | <p>Details on the evaluation method or reference to the Technical Specifications. The major items are indicated by Bold or Highlighted in the Technical Specification. Compliance with or variation from departmental requirement of offered model equipment shall be determined by comparing against each and every criterion specified in bidding document. The offered specification column of the technical Specification supported by relevant Technical Catalogues/ Leaflets of the offered Equipment shall be useful for verification of such specifications.</p> |

Section IV. General Conditions of Contract

- 1. Definitions**
- 1.1 In this Contract, the following terms shall be interpreted as indicated:
- a. "The Contract" means the agreement entered into between the Purchaser and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - b. "Contract Documents" means the documents listed in the Agreement, including amendments thereto. Subject to the order of precedence set forth in the Agreement, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary and mutually explanatory.
 - c. "The Contract Price" means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations.
 - d. "The Goods" means all of the Equipment, machinery, and/or other materials which the Supplier is required to supply to the Purchaser under the Contract.
 - 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. "Delivery" means the transfer of the Goods from the Supplier to the Purchaser in accordance with the terms and conditions set forth in the contract.
 - g. "Completion" means the fulfillment of the related services by the Supplier in accordance with the terms and conditions set forth in the contract.
 - h. "Purchaser Country" is the country specified in the Special Conditions of Contract (SCC).
 - i. "GCC" means the General Conditions of Contract contained in this section.
 - j. "SCC" means the Special Conditions of Contract.
 - k. "The Purchaser" means the organization purchasing the Goods, as **named in SCC**.
 - l. "The Purchaser's country" is "Nepal".
 - m. "The Supplier" means the individual or firm supplying the Goods and Services under this Contract and **named in SCC**.
 - n. "The Project Site," where applicable, means the place or places **named in SCC**.
 - o. "Day" means calendar day.
 - p. "The Governing Language" of the contract shall be English.
- 2. Application**
- 2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.
- 3. Country of Origin**
- 3.1 All Goods and Services supplied under the Contract shall have their origin in Nepal or in the countries and territories eligible under the rules of the Donor Agency, as further elaborated in the **SCC**.

- 3.2 For purposes of this Clause, "origin" means the place where the Goods were mined, grown, or produced, or from which the Services are supplied. Goods are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new 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 Supplier.
- 4. Standards**
- 4.1 The Goods supplied under this Contract shall conform to the standards mentioned in the Technical Specifications, and, when no applicable standard is mentioned, to the authoritative standards appropriate to the Goods' country of origin. Such standards shall be the latest issued by the concerned institution.
- 5. Use of Contract Documents and Information; Inspection and Audit by the Donor Agency**
- 5.1 The Supplier shall not, without the Purchaser's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The Supplier shall not, without the Purchaser's prior written consent, make use of any document or information enumerated in GCC Clause 5.1 except for purposes of performing the Contract.
- 5.3 Any document, other than the Contract itself, enumerated in GCC Clause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier's performance under the Contract if so required by the Purchaser.
- 5.4 The Supplier shall permit the GoN/Donor Agency to inspect the Supplier's accounts and records relating to the performance of the Supplier and to have them audited by auditors appointed by the GoN/Donor Agency, if so required by the GoN/Donor Agency.
- 6. Patent Rights**
- 6.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the Goods or any part thereof in Nepal.
- 7. Performance Security**
- 7.1 Within twenty eight (28) days of receipt of the notification of Contract award, the successful Bidder shall furnish to the Purchaser the performance security in the amount **specified in SCC**.
- 7.2 The proceeds of the performance security shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Purchaser and shall be in one of the following forms:
- a. a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Nepal or abroad, acceptable to the Purchaser, in the form provided in the Bidding documents or another form acceptable to the Purchaser; or
 - b. a cashier's or certified check.

7.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than twenty eight (28) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations, unless otherwise **specified in SCC**.

8. Inspections and Tests

8.1 The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications at no extra cost to the Purchaser. **SCC** and the Technical Specifications shall specify what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes.

8.2 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery, and/or at the Goods' final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Purchaser.

8.3 Should any inspected or tested Goods fail to conform to the Specifications, the Purchaser may reject the Goods, and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser.

8.4 The Purchaser's right to inspect, test and, where necessary, reject the Goods after the Goods' arrival in Nepal shall in no way be limited or waived by reason of the Goods having previously been inspected, tested, and passed by the Purchaser or its representative prior to the Goods' shipment from the country of origin.

8.5 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.

9. Packing

9.1 The Supplier shall provide such packing of the Goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the Goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, **specified in SCC**, and in any subsequent instructions ordered by the Purchaser.

10. Delivery and Documents

10.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in SCC.

10.2 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.

10.3 Documents to be submitted by the Supplier are **specified in SCC**.

- 11. Insurance**
- 11.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner **specified in the SCC.**
- 11.2 Where delivery of the Goods is required by the Purchaser on a CIF or CIP basis, the Supplier shall arrange and pay for cargo insurance, naming the Purchaser as beneficiary. Where delivery is on a FOB or FCA basis, insurance shall be the responsibility of the Purchaser.
- 12. Transportation**
- 12.1 Where the Supplier is required under Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Purchaser or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
- 12.2 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, transport of the Goods to the port of destination or such other named place of destination in Nepal, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
- 12.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Nepal, defined as the Project Site, transport to such place of destination in Nepal, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.
- 12.4 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, no restriction shall be placed on the choice of carrier. Where the Supplier is required under Contract (a) to deliver the Goods FOB or FCA, and (b) to arrange on behalf and at the expense of the Purchaser for international transportation on specified carriers or on national flag carriers of Nepal, the Supplier may arrange for such transportation on alternative carriers if the specified or national flag carriers are not available to transport the Goods within the period(s) specified in the Contract.
- 13. Incidental Services**
- 13.1 The Supplier may be required to provide any or all of the following services, including additional services, if any, **specified in SCC:**
- a. performance or supervision of on-site assembly and/or start-up of the supplied Goods;
 - b. furnishing of tools required for assembly and/or maintenance of the supplied Goods;
 - c. furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied Goods;
 - d. performance or supervision or maintenance and/or repair of the supplied Goods, for a period of time agreed by the parties, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract; and
 - e. training of the Purchaser's personnel, at the Supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied Goods.

13.2 Prices charged by the Supplier for incidental services, if not included in the Contract Price for the Goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the Supplier for similar services.

14. Spare Parts

14.1 As **specified in SCC**, the Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- a. such spare parts as the Purchaser may elect to purchase from the Supplier, provided that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
- b. in the event of termination of production of the spare parts:
 - (i) advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.

15. Warranty

15.1 The Supplier warrants that the Goods supplied under the Contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

15.2 This warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for eighteen (18) 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 SCC**.

15.3 The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.

15.4 Upon receipt of such notice, the Supplier shall, within the period specified in SCC and with all reasonable speed, repair or replace the defective Goods or parts thereof, without costs to the Purchaser other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from EXW or the port or place of entry to the final destination.

15.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.

16. Payment

16.1 The method and conditions of payment to be made to the Supplier under this Contract shall be **specified in SCC**.

16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Services performed, and by documents submitted pursuant

to GCC Clause 10, and upon fulfillment of other obligations stipulated in the Contract.

16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier.

16.4 The currency or currencies in which payment is made to the Supplier under this Contract shall be **specified in SCC** subject to the following general principle: payment will be made in the currency or currencies in which the payment has been requested in the Supplier's Bid.

16.5 All payments shall be made in the currency or currencies specified in the SCC pursuant to GCC 16.4. If both the specified currency and, because of a membership in the European Monetary Union (EMU), the euro is valid in the country of the specified currency, payments may also be made in euro. In case the specified currency has ceased to be valid in the country of the specified currency because of a membership in the EMU, payments shall be made in the corresponding amount of the euro. The conversion of the amount of the specified currency into the euro shall in both cases be made in accordance with the statutory rate of conversion applicable in the country of the specified currency.

17. Prices

17.1 Prices charged by the Supplier for Goods delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Bid, with the exception of any price adjustments **authorised in SCC** or in the Purchaser's request for Bid validity extension, as the case may be.

18. Change Orders

18.1 The Purchaser may at any time, by a written order given to the Supplier pursuant to GCC Clause 32, make changes within the general scope of the Contract in any one or more of the following:

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

18.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended. Any claims by the Supplier for adjustment under this clause must be asserted within thirty (30) days from the date of the Supplier's receipt of the Purchaser's change order.

19. Contract Amendments

19.1 Subject to GCC Clause 18, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.

20. Assignment

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

21. Subcontracts

21.1 The Supplier shall notify the Purchaser in writing of all subcontracts awarded under this Contract if not already specified in the Bid. Such notification, in the original Bid or later, shall not relieve the Supplier from any liability or obligation under the Contract.

21.2 Subcontracts must comply with the provisions of GCC Clause 3.

22. Delays in the Supplier's Performance

22.1 Delivery of the Goods and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the Schedule of Requirements.

22.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.

22.3 Except as provided under GCC Clause 25, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 23, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of liquidated damages.

23. Liquidated Damages

23.1 Subject to GCC Clause 25, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in SCC of the delivered price of the delayed Goods or unperformed Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage **specified in SCC**. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 24.

24. Termination for Default

24.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part:

- a. if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 22; or
- b. if the Supplier fails to perform any other obligation(s) under the Contract.
- c. if the Supplier, in the judgment of the Purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

For the purpose of this clause:

"corrupt practice" means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.

"fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Purchaser, and includes collusive practice among Bidders (prior to or after Bid submission) designed to establish Bid prices at artificial non-competitive levels and to deprive the Purchaser of the benefits of free and open competition.

24.2 In the event the Purchaser terminates the Contract in whole or in part,

pursuant to GCC Clause 24.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

25. Force Majeure

- 25.1 Notwithstanding the provisions of GCC Clauses 22, 23, and 24, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.
- 25.2 For purposes of this clause, "Force Majeure" means an 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 Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
- 25.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event.

26. Termination for Insolvency

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

27. Termination for Convenience

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

28. Settlement of Disputes

- 28.1 If any dispute or difference of any kind whatsoever shall arise between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.
- 28.2 If, after twenty eight (28) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in

dispute, and no arbitration in respect of this matter may be commenced unless such notice is given.

28.2.1 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the Goods under the Contract.

28.2.2 Arbitration proceedings shall be conducted in accordance with the rules of procedure **specified in the SCC**.

28.3 Notwithstanding any reference to arbitration herein,

- a. the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and
- b. the Purchaser shall pay the Supplier any monies due the Supplier.

29. Limitation of Liability

29.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to GCC Clause 6,

(a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Purchaser and

(b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective Equipment.

30. Governing Language

30.1 The Contract shall be written in the language **specified in SCC**. Subject to GCC Clause 31, the version of the Contract written in the specified language shall govern its interpretation. All correspondence and other documents pertaining to the Contract which are exchanged by the parties shall be written in the same language.

31. Applicable Law

31.1 The Contract shall be interpreted in accordance with the laws of Nepal, unless otherwise **specified in SCC**.

32. Notices

32.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or by facsimile and confirmed in writing to the other party's address **specified in SCC**.

32.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.

33. Taxes and Duties

33.1 A foreign Supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside Nepal.

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

34. Supplier's Responsibilities

34.1 The Supplier shall supply all the goods and related services included in the scope of supply and change order in accordance with GCC Clause 18 and the Delivery and completion schedule, as per GCC clause 10.

35. Purchaser's Responsibilities

35.1 Whenever the supply of Goods and Rental Services requires that the Supplier obtain permits, approval and import and other licences from local

public authorities, the Purchaser shall, if so required by the Supplier, makes its best effort to assist the Supplier in complying with such requirements in a timely and expeditious manner.

35.2 The Purchaser shall pay all costs involved in the performance of its responsibilities, in accordance with GCC sub-clause 35.1.

36. Extension of Time

36.1 If at any time during performance of the Contract, the Supplier or its subcontractors should encounter conditions impeding timely delivery of the Goods or completion of related services pursuant to GCC clause 10, the Supplier shall promptly notify the Purchaser in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be rectified by the parties by amendment of the Contract

Unless otherwise specified in the Contract, if after the date of the Invitation for Bids, any law, regulation, ordinance, order or bylaws having the force of law is enacted, promulgated, abrogated, or changed in the place of Nepal where the site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the delivery date and/or the Contract Price, then such delivery date and/or the Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC clause 17.

Section V Special Conditions of Contract

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The corresponding clause number of the GCC is indicated in parentheses.

1. Definitions (GCC Clause 1)

GCC 1.1 (k)—The Purchaser is: ***The Department of Roads, Mechanical Branch.***

GCC 1.1 (m)—The Supplier is:

GCC 1.1 (n)—The Project Site is: ***Delivery site: Department of Roads, Heavy Equipment Division, Hetauda, Nepal***

2. Country of Origin (GCC Clause 3)

3. Performance Security (GCC Clause 7)

GCC 7.1—The amount of performance security, as a percentage of the Contract Price, shall be: ***Five (5) % of total contract amount to be furnished in accordance to the "Performance security sample form" of bid document.***

4. Inspections and Tests (GCC Clause 8)

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

- a. ***The purchaser shall appoint an Inspection Committee to inspect the goods delivered by the Supplier under this contract. The inspection shall be carried out at the place of delivery soonest possible after the arrival of the complete consignment and not later than fifteen days from the date of receipt of notification from the Supplier stating that the goods are ready for inspection.***
- b. ***The Supplier or his representative shall be responsible for commissioning, testing and demonstrating to the Purchaser's Inspection Committee that the goods meet the specification requirements and also the claimed performances of the manufacturer. The goods shall be tested for 5 hours.***
- c. ***All expenses involved in assembling and commissioning the goods including fuels, oils, machines etc. to meet the requirements of the contract, and the cost of any unsuccessful test or tests for this purpose shall be at the expense of the Supplier. Should there be any defect in material or workmanship, the Supplier will correct or cause to be corrected such defects or deviation from the contract requirement at his own expenses within thirty days from the date of such inspection.***
- d. ***The Supplier shall be completely responsible for the goods until accepted by the Purchaser and should there be any items missing (according to the Invoice and / or packing list) or damaged, the Supplier shall restore such items. As soon as the goods have been found to meet the requirements of the contract, the Purchaser shall issue a certificate of acceptance and the warranty period of the said goods shall be enforced from the date of this certificate. All manuals and books as specified in the Technical Specifications shall be submitted by the Supplier before issuing the acceptance certificate.***

5. Packing (GCC Clause 9)

The following SCC shall supplement GCC Clause 9.2:

Weight, size, Contract No., Purchaser's name and address, Supplier's name and address, Letter of credit No., Destination, CIF Port of Entry in bond to Nepal (if applicable), hoisting points for lifting shall be clearly painted outside the packing in indelible ink/paint

a) Packing and Crating

Goods shall be packed for export. Such packing must be sufficient to assure full protection until arrival at destination, adequately covering such hazards as rough handling and possible corrosion due to the elements. The Supplier shall be held responsible of all damages due to improper preparation and packing and transportation.

b) Packing list

One copy of the detailed packing list shall be enclosed in each package to be transported and shall be enclosed in water proof package or envelopes. Packing list shall not be attached to the outside of package nor shall any reference be made in the outside as to the contents of the package.

6. Delivery and Documents (GCC Clause 10)

For Goods supplied from abroad:

GCC 10.3—Upon shipment, the Supplier shall notify the Purchaser and the Insurance Company by facsimile the full details of the shipment, including Contract number, description of Goods, quantity, the vessel, the bill of lading number and date, port of loading, date of shipment, port of discharge, etc. The Supplier shall mail the following documents to the Purchaser, with a copy to the Insurance Company:

- (i) **4** copies of the Supplier's invoice showing Goods' description, quantity, unit price, and total amount;
- (ii) Original and **2** copies of the negotiable, clean, on-board bill of lading marked "freight prepaid" and **2** copies of nonnegotiable bill of lading;
- (iii) **4** copies of the packing list identifying contents of each items;
- (iv) **4** copies of insurance certificate;
- (v) **4** copies of certificate of origin.
- (vi) **4** copies of Inspection Certificate.

The above documents shall be received by the Purchaser at least one week before arrival of the Goods at the port or place of arrival and, if not received, the Supplier will be responsible for any consequent expenses.

For Goods from within Nepal: Not Applicable

7. Insurance (GCC Clause 11)

GCC 11.1—

- a. **The Insurance shall be in an amount equal to 110 percent of the CIP value of the goods from "Warehouse to Warehouse" on "All Risks" basis including War Risks and Strike clauses, and shall have;**

- (i) **Coverage for all items against marine/air/inland transportation, transit and other risks and shall be valid till issuance of acceptance certificate;**
- (ii) **Coverage to allow complete replacement of any item lost or damaged;**

b. Supplier shall:

- (i) **Initiate and pursue any claims; and,**

- (ii) **Promptly make arrangements for repair or replacement of any damaged items.**

8. Transportation (GCC Clause 12)

GCC 12.1—Obligation of transportation of the goods shall be in accordance with:

All dispatches shall be on the basis of delivery to the address stated in the technical specification. Insurance covering each dispatch from factory to the place of delivery shall thus be provided by the Supplier. Each and every item shall be insured up to delivery place at its total contract price delivered at site in Nepal, plus 10% of sum against all insurable risks until acceptance by the purchaser. For such insurance any indemnity shall be payable in a currency freely useable to replace or repair the goods and shall be payable to the purchaser. The Supplier shall be responsible for all correspondence and negotiation associated with the claim. If necessary the purchaser will have the right to deduct any reasonable amount from balance payments due to the Supplier to cover the damages or losses, if so incurred on its way to destination. This amount shall not be refunded to the Supplier. The Supplier shall be responsible for the supply and delivery of the goods under this Contract at the places as specified in the Specification.

9. Incidental Services (GCC Clause 13)

GCC 13.1—Incidental services to be provided are:

- a. **At site training and familiarization of components of the machine during commissioning shall be provided free of cost.**
- b. **Furnishing a detailed operations and maintenance manual as specified in the Technical Specifications for each appropriate unit of the supplied Goods.**
- c. **The supplier shall arrange and conduct training for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied. Such training shall be conducted for two weeks in the country of origin of the equipment or in places as may be mutually agreed upon. All the cost incurred in this training program for the trainees shall be borne by the supplier and such cost to include training fees, lodging, fooding, traveling expenses and allowances of US\$ 125.00 or equivalent per day per person of the trainees.**

10. Spare Parts (GCC Clause 14)

GCC 14.1—Additional spare parts requirements are:

Not applicable.

11. Warranty (GCC Clause 15):

- a. **The Supplier warrants that the goods supplied under the Contract are new, unused, of the most recent or current models and incorporate all recent improvements in design and materials unless provided otherwise in the contract. The Supplier further warrants that all goods supplied under this Contract shall have no defect arising from design materials or workmanship (except in so far as the design or material is required by the Purchaser's specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.**
- b. **This warranty shall remain valid for 12 months after the goods accepted by the Purchaser.**
- c. **The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty.**

- d. ***Upon receipt of such notice, the Supplier, with all reasonable speed, repair or replace the defective goods or parts thereof, without any cost to the Purchaser. The Supplier shall rectify the defects within 30 days from the date of its notification. If the supplier fails to do so, the warranty period shall be extended by the delay period incurred after 30 days.***
- e. ***If the Supplier, having been notified, fails to rectify the defects within a reasonable period, the Purchaser may proceed to take such remedial action as may be necessary from the deferred balance payment or performance bond, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the contract.***

12. Payment (GCC Clause 16)

GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:

Payment for Goods supplied from abroad:

- A. ***Currency:***
Payment will be made in the currency requested by supplier. However should such currency be non-convertible any convertible currency may be used. In case of supplied from India, the payment shall be made in Indian Currency.
- B. ***Letter of Credit:***
The Purchaser shall within 30 days from the date of signing of the contract open a qualified and divisible letter of credit in favor of the Supplier for the total contract price. However, in case of local bidders L/C shall be established in favour of their principal or the principal's nominee only. The validity of this letter of credit shall be fixed in accordance with the time of delivery stated in the Bid. In case of force majeure the validity of the letter of credit may be extended for the necessary period.

Payment of foreign currency portion shall be made in the ***currency of the Contract Price through L/C*** in the following manner:

- (1) ***On shipment: Ninety (90) percent of the Contract price of the goods shipped shall be paid through irrevocable confirmed letter of credit opened in the favor of the Supplier in a bank in its country, upon submission of documents specified in GCC Clause 10.***
 - (2) ***On acceptance: Ten (10) percent of the contract price of the goods received shall be paid within twenty eight (28) days of receipt of the goods and successful completion of incidental service upon submission of the claim supported by the acceptance certificate issued by the purchaser.***
- C. ***Documents required for payments:***
- Payments of the above installments shall be made against the handing over by the Supplier to the bank of the following documents.***
- (1) ***As regards the installment under B(1) above; all documents described and listed in SCC 6 (Goods from abroad).***
 - (2) ***As regards the installment under B(2) above; a certificate from the Purchaser to the Supplier acknowledging that the goods have been accepted by the purchaser and,***

- (3) **As regards the release of performance bond, the purchaser will send a letter to the Supplier acknowledging that the Supplier has fulfilled his obligations as to the guarantee for the goods.**

Payment of local currency portion (if any) shall be made in **Nepalese Rupees** [currency] within twenty eight (28) days of presentation of claim supported by a certificate from the Purchaser declaring that the Goods have been delivered and that all other contracted Services have been performed.

13. Prices (GCC Clause 17)

- (a) **Prices shall be fixed.**
- (b) **In case of supplies from India, the bidder should quote in Indian Currency. If Excise Duty is applicable, goods should be supplied in Duty Refundable Procedures (DRP).**

The Supplier warrants that ex-work prices stated in his proposal do not exceed his regular domestic prices and violation of this warranty will entitle the Purchaser to terminate the contract or to demand refund of the excessive price paid.

14. Change Orders (GCC Clause 18)

15. Liquidated Damages (GCC Clause 23)

GCC 23.1—Applicable rate: **per day one twentieth (0.05%) percent.**

Maximum deduction: **10% of Total contract price (If the delay is more than three months, in addition to demanding liquidated damages the Purchaser shall have right to terminate the Contract partly or wholly by giving notice to the Supplier.)**

16. Settlement of Disputes (GCC Clause 28)

GCC 28.2.2—The rules of procedure for arbitration proceedings pursuant to GCC Clause 28.2 shall be as follows:

If any dispute or difference of any kind whatsoever shall arise between the purchaser and the Supplier in connection with or arising out of the contract (whether before or after the termination, abandonment or breach of the contract) it shall be settled according to Arbitration Laws of Nepal.

17. Limitation of Liability (GCC Clause 29)

18. Governing Language (GCC Clause 30)

GCC 30.1 The Governing Language shall be: **English**

19. Applicable Law (GCC Clause 31)

GCC 31.1 The Applicable Law shall be: **The laws of Nepal**

20. Notices (GCC Clause 32)

GCC 32.1 Purchaser's address for notice purposes: **Department of Roads
Mechanical Branch, Babarmahal, Kathmandu, Nepal.**

Supplier's address for notice purposes:

21. Taxes and Duties (GCC Clause 33)

- (a) ***Outside Nepal : Any export tax, fee or other charges of whatsoever nature now existing or which may hereafter be imposed outside Nepal shall be for the Supplier's account.***

- (b) ***Inside Nepal : Custom duty, surcharge and VAT or and other local taxes that may be collected by the Government of Nepal or local agents shall be for the Purchaser's account and shall not be included in the Bid Price. However, if required, the Supplier should pay these amounts and purchaser shall reimburse the amount paid on submission of documentary evidences.***

Section VI Schedule of Requirements

The delivery schedule expressed as days stipulated hereafter a delivery date which is the date of delivery to the final destination.

| <i>Description</i> | <i>Qty</i> | <i>Delivery Schedule in days after receipt of letter of credit</i> |
|---|----------------|--|
| <i>Hydraulic Excavator with Breaker (20,000 kg Class)</i> | <i>1 (one)</i> | <i>120 days</i> |

Section VII Technical Specification

Excavator, Hydraulic, Crawler Mounted with Breaker

Qty: 1 Unit

| S.N. | CRITERIA | DEPARTMENTAL REQUIREMENT | OFFERED SPECIFICATION |
|------|------------------|---|---------------------------------------|
| 1. | General | Crawler mounted hydraulic excavator, with Breaker suitable for operation under rough working conditions and adverse climatic condition at operating altitude of 2000 m and ambient temperature varying between -5 ⁰ C to 50 ⁰ C. | Make: Model: Country of Origin: |
| 2. | Engine | Water-cooled diesel engine developing SAE rated net flywheel horse power not less than 135 HP at governed rpm. Shall be provided with cold starting device, heavy-duty air cleaner, heavy-duty fuel filter system and direct electric 24 volt starting system. Exhaust pipe shall be deflector type. | Make: Model: |
| 3. | Gauges | Gauges or meters as necessary for efficient operation and maintenance. | |
| 4. | Hydraulic system | The lift, crowd and bucket mechanism shall be operated by hydraulic cylinders. Ample pump and reservoir capacity shall be furnished for maximum operating cycles without overheating. Replaceable element type oil filter shall be fitted. | |
| 5. | Under carriage | Track type undercarriage, heavy duty with track adjustment, sprocket, track rollers and idlers, sealed and lubricated. Track type Approx. 600 mm triple grouser track shoe. | |
| 6. | Working Range | 1. Maximum digging height : ≥ 9000 mm 2. Maximum digging depth : ≥ 6000 mm 3. Maximum digging reach : ≥ 9000 mm (Ground Level) | |
| 7. | Bucket | General-purpose bucket with bolt on teeth SAE rated capacity (nominally heaped) of 1.0 cu.m. approximately. | |
| 8. | Operating Weight | 20,000 kg Class (±10 %) | |
| 9. | Cab | The excavator shall be furnished with an operator's cab. The cab shall be completely enclosed and shall be equipped with tinted safety glass to provide 360 degree visibility. The operator's position shall have an adjustable seat with armrests. | |

| | | | |
|-----|-----------------------|--|---------------------|
| 10. | Breaker | The excavator shall have all the arrangements for the attachment and operation of hydraulic Breaker. <u>Details of the Breaker to be supplied along with hydraulic excavator:</u> Breaker Service Weight: 1700 kg Class ($\pm 20\%$) Working tool Diameter : Approx. 120 mm Useful tool length : Not less than 350 mm (The breaker should be compatible with supplied hydraulic excavator and be supplied under the same contract package along with hydraulic excavator) | Make: Model: |
| 11. | Essential Accessories | <ol style="list-style-type: none"> 1. Service hour meter 2. Electric windscreen wipers. 3. Heater and defroster. 4. 2 working lights. 5. Door locks. 6. Breaker tools <ol style="list-style-type: none"> a) Conical point type: 2 Nos. b) Flat chisel type : 1 No. | |
| 12. | Instructions | All signs and instructions in the equipment shall be in English. | |
| 13. | Manuals | <ol style="list-style-type: none"> 1. One copy of the Operator's and Owner's Instructions and Maintenance manual in English shall be supplied with each equipment 2. Two copies of following manuals in English shall be supplied: <ol style="list-style-type: none"> a) Spare parts catalogue b) Comprehensive workshop manual | |
| 14. | Spare parts | Supplier shall provide the manufacturer recommended ex-works price of spare parts for one unit of equipment as follows <ol style="list-style-type: none"> 1. List of spare parts as specified in spare parts APPENDIX. | |
| 15. | Tools | A set of tools as required for general maintenance shall be supplied with in a lockable tool box for each unit. | |
| 16. | Color | Orange / Construction equipment yellow | |
| 17. | Warranty | Manufacturer shall provide a minimum of one year warranty after Acceptance by the department. | |
| 18. | Proven performance | <ol style="list-style-type: none"> 1. The machine offered shall be a current model under standard production by the manufacturer for at least one year. 2. The bidder shall provide the manufacturer's data of the performance of the unit to include the fuel consumption, performance curve of the engine and production capacity of the unit. | |

| | | | |
|-----|--------------------|--|--|
| 19. | Initial Service | The supplier shall provide with the equipment all the necessary filters and spare parts required for the first two services, after the equipment has been commissioned and accepted. | |
| 20. | Incidental Service | The supplier shall arrange and conduct training at own cost for two concerned engineers of the Department of Roads, in operation, maintenance and/or repair of the equipment supplied for two weeks in the country of origin of the equipment or in places as may be mutually agreed upon as per SCC 9 (Name of Country to be specified). | |
| 21. | Delivery | The Excavator 1 unit with breaker and its spare parts shall be delivered to: Department of Roads, Heavy Equipment Division, Hetauda, Nepal | |

Note:

- a) **The major items are indicated by bold and highlighted letters/alphabets/figures in the technical specifications. Non-compliance of these major items will result in non-responsiveness of the bid offer as per ITB 28.3 (k).**
- b) **The bidder is required to submit documentary evidence showing that s/he has already supplied at least 10 units of same / similar equipment in Government or Non-Government organization within Nepal. Furthermore, bidder is required to submit documentary evidence showing that the manufacturer's representative in Nepal has been providing after sales services for at least past 5 years, as mentioned in bidding data ITB 17.1 (d), Qualification requirements.**

Bidder's Signature

Date

Section VIII Spare Parts Appendix

Spare parts for Hydraulic Excavator with Breaker

| Description | Part No. | Applicable unit/mc. | Ex-Work Price | Qty. Reqd. | Total Ex-Work Price |
|--|----------|---------------------|---------------|------------|---------------------|
| Engine group | | | | | |
| Fuel Filter Element | | | | 2 set | |
| Oil Filter Element, Engine | | | | 2 set | |
| Air Cleaner Element | | | | 2 set | |
| Glow plug | | | | 1 set | |
| Fan belt | | | | 1 set | |
| Hydraulic & Transmission | | | | | |
| Element, Hydraulic filter | | | | 2 pc | |
| Undercarriage | | | | | |
| Track Roller, Lower | | | | 4 pc | |
| Carrier Roller, Upper | | | | 2 pc | |
| Ground engaging tools | | | | | |
| Bucket Teeth Assy. with nuts and bolts | | | | 1 set | |
| Total EXW Price | | | | | |
| Total FOB Price | | | | | |

Bidder's Signature Date

Note:

- (a) The bidder shall quote all items applicable to offered equipment of the spare parts appendix of the bid document. If any of the items listed in the spare parts appendix happens to be non-applicable, the bidder must clearly state them as non-applicable. Moreover, the bidder should also fill in part number and other details as specified in the Spare parts appendix. The bidder, at the same time, has to submit a comprehensive spare parts manual applicable to the offered equipment.
- (b) Wherever applicable, the part no., applicable units/machine and unit rates shall be clearly mentioned.
- (c) Quantity specified as sets indicate total quantity applicable to one unit/ machine.
- (d) The name of the parts indicates general functional use, if it differs from the one, its own identity name may be used.

Section IX. Sample Forms

1. Bid Form and Price Schedules

Date: _____
 Loan No: _____
 ICB No: RD/MB/EP/68-69/3

To: **Department of Roads**
Mechanical Branch, Babarmahal, Kathmandu..

Gentlemen and/or Ladies:

Having examined the Bidding documents including Addenda Nos. **[insert numbers]**, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to supply and deliver **of Equipment and Spare Parts** in conformity with the said Bidding documents for the sum of**[total Bid amount in words and figures]** or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Bid.

We undertake, if our Bid is accepted, to deliver the goods and services in accordance with the delivery schedule specified in the Schedule of Requirements.

If our Bid is accepted, we will provide a Bank Guarantee acceptable to the Purchaser in a sum equivalent to 5 percent of the Contract Price for the due performance of the Contract, in the form prescribed by the Purchaser.

We agree to abide by this Bid for a period of **[insert number as specified in bid validity period]** days from the date fixed for Deadline for Bid submission, and it shall be remain binding upon us and may be accepted at any time before the expiration of that period.

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

| Name and address of agent | Amount and Currency | Purpose of Commission or gratuit |
|---------------------------|---------------------|----------------------------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| (if none, state "none") | _____ | _____ |

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

We understand that you are not bound to accept the lowest or any Bid you may receive.

We certify/confirm that we comply with the eligibility requirements as per ITB Clause 2 of the Bidding documents.

Dated this _____ **[dd]** day of _____ **[mm]** month of 20 _____ **[yy]**.

[Name] _____

[signature]

[in the capacity of]

PRICE SCHEDULE FOR GOODS OFFERED FROM ABROAD

Name of Bidder _____

IFB Number: RD/MB/EP/68-69/3

Page ____ of ____ .

| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 | |
|----------|--|-------------------|------|--|--|--|--|---|------------|--------------------|---------|
| No | Description | Country of origin | Qty. | Unit price FOB (specify port or place) | Unit price CIF (specify port of discharge) | Total CIF (port of discharge) (col. 4 x 6) | Total price of inland delivery to final destination including Insurance | Total CIP Price destination (in Nepal) (col. 7+8) | A+B | Total Bid Price | Remarks |
| A | Equipment Make/Model: | | Pcs | | | | | | | | |
| B | Spare Parts as specified in (APPENDIX) | | Lot | | | | | | | | |

The total bid Price for the above schedule is in the currency of.....
(In Words)

Datedthis day of.....
Bidder.....

(Affix Cooperate seal)

Note:

- **This form may be expanded if necessary.**
- **Currencies to be used in accordance with Clause 15 of Instructions to Bidder.**
- **In case of discrepancy between unit price and total, unit price shall prevail.**
- **The cost of Incidental service as per SCC 9 should be borne by the Bidder (Supplier).**

Signature
Title
Business Address

2. Bid Security Form

Date:

To **Department of Roads, Mechanical Branch, Babarmahal, Kathmandu..**

Whereas **[name of the Bidder]** (hereinafter called "the Bidder") has submitted its bid dated **[date of submission of bid]** for the **supply and Delivery of Equipment and Spare parts** (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 Purchaser]** Government of Nepal (hereinafter called "the Purchaser") in the sum of **[amount]** for which payment well and truly to be made to the said Purchaser, the Bank binds itself, its successors, and assigns by these presents. Sealed with the Common Seal of the said Bank this ____ day of _____ **[mm]** 20____.

THE CONDITIONS of this obligation are:

1. If the Bidder
 - (a) withdraws its Bid during the period of bid validity specified by the Bidder on the Bid Form; or
 - (b) does not accept the correction of errors in accordance with the Instructions to Bidders; or
2. If the Bidder, having been notified of the acceptance of its Bid by the Purchaser during the period of bid validity:
 - (a) fails or refuses to execute the Form of Agreement in accordance with the Instructions to Bidders, if required; or
 - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders;
 - (c) does not accept the provision of bidding document.

We undertake to pay to the Purchaser up to the above amount upon receipt of its first written demand, without the Purchaser having to substantiate its demand, provided that in its demand the Purchaser will note that the amount claimed by him is due to him, owing to the occurrence of one or any of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of bid validity or as it may be extended by the Purchaser, notice of which extension(s) to the Bank is hereby waived.

And any demand in respect thereof should reach the Bank not later than the above date.

[signature of the bank]

Seal of the issuing Bank:

Witness :
Signature:
Name :
Address :

3. Contract Form

THIS AGREEMENT made the _____ day of _____ [mm] 20_____ between [name of Purchaser] of [country of Purchaser] (hereinafter called "the Purchaser") of the one part and [name of Supplier] of [city and country of Supplier] (hereinafter called "the Supplier") of the other part:

WHEREAS the Purchaser invited bids for certain goods and ancillary services, viz., [brief description of goods and services] and has accepted a bid by the Supplier for the supply of those goods and services in the sum of [contract price in words and figures in Nepalese Rupees] (hereinafter called "the Contract Price").

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
 - (a) the Bid Form and the Price Schedule submitted by the Bidder;
 - (b) the Schedule of Requirements;
 - (c) the Technical Specifications;
 - (d) the General Conditions of Contract;
 - (e) the Special Conditions of Contract;
 - (f) the Purchaser's Notification of Award; and
 - (g) any other document which the Purchaser wants to add in the particular procurement.
3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the goods and services and to remedy defects therein in conformity in all respects with the provisions of the Contract.
4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the goods and services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the Contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

On behalf of the Purchaser

On behalf of the Supplier

Name :

Name :

Signature:

Signature:

Designation:

Designation:

Seal:

Seal:

SCOPE OF CONTRACT:

SHEET.....OF.....

Contract No.: RD/MB/EP/68-69/3

| Item No | Description | Country of Origin | Qty | CIP/CIF Site Price | | Total Bid Price | Currency of Bid | Calendar days of Delivery at Site after Receipt of L/C | Remarks |
|---------|-------------|-------------------|-----|--------------------|-------|-----------------|-----------------|--|---------|
| | | | | Unit | Total | | | | |
| | | | | | | | | | |

.....
 DIRECTOR GENERAL
 Department of Roads
 for Government of Nepal

Witness

 For.....
 (Address)

 (Title)

Seller

Date:

Witness

 (Address)

 (Title)

Date:

4. Performance Security Form

Date:

To: **Department of Roads, Mechanical Branch, Babarmahal, Kathmandu**
[Address of Purchaser]

WHEREAS **[name and address of Supplier]** (hereinafter called "the Supplier") has undertaken, in pursuance of Contract No. **[Reference number of the contract]** dated _____ **[yy/mm/dd]** to **Supply and Delivery of Equipment and Spare parts** (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 reputable bank for the sum specified therein as security for compliance with the Supplier's performance 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 Guarantors and responsible to you, on behalf of the Supplier, up to a total of **[amount of the guarantee in words and figures Nepalese Rupees]**, and we undertake to pay you, upon your first written demand such sum being payable in the types and proportions of currencies in which the contract price is payable, and without cavil or argument, any sum or sums within the limits of **[amount of guarantee in Nepalese Rupees]** as aforesaid, without your needing to prove or to show grounds or reasons for your demand for the sum specified therein.

We hereby waive the necessity of 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 or of the Goods to be supplied thereunder or of any of the Contract documents which may be made between you and the Supplier shall in any way release us from liability under this Guarantee, and we hereby waive notice of any such change, addition or modification.

This Guarantee is valid until a date 30 days from the date of issue of the Certificate of Acceptance and/or beyond the validity of warranty period.

Signature and seal of the Guarantors

[name of bank]

[address]

[date]

5. Manufacturer's Authorization Form

Date:

To: **Department of Roads, Mechanical Branch, Babarmahal, Kathmandu**
[Address of Purchaser]

WHEREAS *[name of the Manufacturer]* who are established and reputable manufacturers of *[name and/or description of the goods]* having factories at *[address of factory]*

We hereby authorize *[name and address of Agent]* to submit a Bid, and subsequently negotiate and sign the Contract with you against IFB No. *[reference of the Invitation to Bid]* for the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per Clause 15 of the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Bids.

[signature for and on behalf of Manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a person competent and having the power of attorney to bind the Manufacturer. It should be included by the Bidder in its Bid.