



FEDERAL REPUBLIC OF NIGERIA

Standard Bidding Document

for the

Procurement of Goods

January 2008

Notice to Users

1. This Standard Bidding Document (SBD) has been prepared by the Bureau of Public Procurement for the Procurement of Goods and Related Services under National Competitive Tendering (NCT) when financed by the National Budget and to enable a Procuring Entity to select the lowest evaluated tender. It can also be used for International Competitive Bidding (ICB).

2. This SBD is in accordance with the Procurement Act 2007, dated June 4th 2007 and the policies and procedures of the Regulations for Goods and Works, among others paragraphs 10-12 regarding the eligibility of Tenderers, and has been adapted to the needs of Nigeria from internationally acceptable model formats. The SBD when properly completed will provide all the information that a Tenderer needs in order to prepare and submit a Tender. This should provide a sound basis on which the Procuring Entity can fairly, transparently and accurately carry out a Tender evaluation process on the Tenders submitted by the Tenderers.

3. This SBD can be used when prequalification has been or has not been used. Pre-qualification is usually not necessary for the procurement of Goods; unless there is a procurement requirement of specialised nature or for custom-designed equipment. In the case of prequalification, for which the Standard Prequalification Document applies, this STD may have to be adjusted to include the prequalification results.

4. The following guidelines apply for the Procuring Entity when using this SBD :

- (a) check the relevance of the provisions of the SBD against the requirements of the specific Goods to be procured;
- (b) tailor the document to the circumstances of the particular Project. The Procuring Entity should only introduce such adjustments in the Sections of the SBD which are specifically designed for this purpose :

Section 2 : the Special Instructions to Tenderers (SIT) ;

Section 4 : the Special Conditions of Contract (SCC),

Section 6 : the Schedule of Requirements ;

Section 7 : Technical Specifications, and

Section 8 : Drawings.

Those details not filled by the Procuring Entity are the responsibility of the Tenderer ;

- (c) but *never* change the Instructions to Tenderers and the General Conditions of Contract ;

- (d) provide the specific information needed in the italicized notes inside brackets and the boxes with single borders. These notes should also specify where the Tenderer should

provide information. *Most footnotes and boxes are solely prepared for the use of the Procuring Entity and are not part of the final SBD to be issued. In other words, they should be removed from the final version ;*

(e) retain the other notes which specify that they are guidance to the Tenderers.

(f) indicate the name of the project, the contract number, the name of the Procuring Entity and the date of issue on the cover of the document;

5. The Standard Bidding Document for the Procurement of Goods has the following contents :

IFT Invitation for Tender (IFT) :

This is a repeat of the IFT which was published in the media and on the website of the Procuring Entity announcing the Tender and providing the essential information to prospective Tenderers to invite them to participate. It is reprinted here for reference purposes only.

Section 1 Instructions to Tenderers (ITT) :

The ITT are standard instructions which guide the Tenderers how to prepare their tenders. Standard instructions mean that they cannot be modified by the Procuring Entity. The ITT are based on the Procurement Law and the Regulations for Goods and Works, from which the procedures for tender submission, opening, evaluation and Contract award have been derived. They clarify the general evaluation criteria for the selection of the lowest evaluated responsive tenderer and describe the basic qualifications that the Tenderer need for contract execution. This Section cannot be changed under any circumstances.

Section 2 Special Instructions to Tenderers (SIT).

In this Section, the Procuring Entity supplements or adapts the relevant clauses of the ITT to the specific tender information or project requirements where needed (name of the Procuring Entity, tender submission date, specific evaluation criteria, amount of tender security, tender validity period, alternative tenders permitted or not, fixed price contract or contract subject to price adjustment, goods delivery schedule, domestic preference applies or not, level of performance security to be provided at contract signature, etc). Modifications to the Instructions to Tenderers using special Instrument to Tender to make them more specific cannot change the Law or the Regulations.

Section 3 General Conditions of Contract (GCC)

The GCC define the Conditions of Contract for Goods in Nigeria and are also based on the Procurement Law and the Regulations for Goods and Works. Like the ITT, the GCC cannot be modified or adapted by the Procuring Entity except through the Special Conditions of Contract (SCC).

Section 4 Special Conditions of Contract (SCC)

The SCC supplements or adapts the relevant clauses of the GCC to the specific requirements of the Contract (in particular with respect to the starting date, description of the Goods, insurance requirements, percentage of advance payment, payment schedule, interest for payment delays, price adjustment formula, relationship with the Supervising Engineer, Architect, bonus and penalty provisions, performance security, percentage of retention money and/or performance guarantee, warranty and repair/replacement conditions, liquidated damages, inspections and tests, arbitration rules, etc.).

Section 5 Standard Tender and Contract Forms

This Section provides the standard format for the *Tender Submission Sheet (Form G-1)*, *Price Schedule (Form G-2)*, *Specifications Submission Sheet (Form G-3)*, *Tenderer Information Sheet (Form G-4)*, *Manufacturer's Authorization Letter (Form G-5)* and *Tender Security (Form G-6)* to be submitted by the Tenderer, as applicable.

This Section also contains the form of the *Notification of Award (Form G-7)* and the *Contract Agreement (Form G-8)* which, when completed, incorporates any corrections or modifications to the accepted Tender relating to amendments permitted by the Instructions to Tenderers, the General Conditions of Contract (GCC), and the Special Conditions of Contract (SCC).

The forms for *Performance Security (Form G-9)* and *Advance Payment Security (Form G-10)* (when required) are to be completed by the successful Tenderer after Contract award and these forms must be submitted by the successful Tenderer as a Condition of Contract signature.

Section 6 Schedule of Requirements

Provides the List of Goods and Delivery Schedule and the List of Related Services and Completion Schedule and must be carefully prepared by a Procuring Entity for each object of procurement.

Section 7 Technical Specifications

Describe the Goods and Related Services to be procured. There is a prerequisite for tenderers to respond realistically and competitively to the requirements of the Procuring Entity. They must present a clear statement of the required standards of workmanship, materials, goods and related services, in order to achieve the principles of sound public procurement (efficiency, economy, fairness and transparency) and it is essential for the Tenderer to provide this information with great diligence if it wants to succeed in a fair evaluation.

Section 8 Particular Specifications

This Section provides further details on special requirements for the Works and modifies or clarifies any General Technical Specifications.

Section 8 Drawings

This Section contains any drawings that supplement the specifications.



FEDERAL REPUBLIC OF NIGERIA

[enter here the name and address of the Procuring Entity]

T E N D E R D O C U M E N T

FOR THE PROCUREMENT OF

GOODS

[enter here the nature of the goods and related services to be procured]

Invitation for Tender No :

Issued on :

Tender Package No :

[Note : The Invitation for Tenders that follows on the next page is the standard format as it should appear on the website. The procuring entity should ensure that a hard copy of the Invitation for Tenders as actually published is included in the issued Tender Document.]

INVITATION FOR TENDERS

(Here follows a copy of the advertisement as published in the media and the website of the Procuring Entity).

SECTION 1. INSTRUCTIONS TO TENDERERS

A. General

Scope of Tender.

1.1 The Procuring Entity, as indicated in the Special Instructions to Tenderers (SIT), issues this Tender Document for the supply of Goods, and Related Services incidental thereto, as specified in the SIT and as detailed in Section 6 : Schedule of Requirements. The name of the Tender and the number and identification of its constituent lot(s) are stated in the SIT.

1.2 The successful Tenderer will be required to complete the delivery of the goods and related services (when applicable) as specified in the Special Conditions of Contract (SCC).

1.3 Throughout this Tender Document :

(a) the term *ñin writingò* means communicated in written form with proof of receipt ;

(b) if the context so requires, singular means plural and vice versa ; and

(c) *ñdayò* means calendar day.

Source of Funds.

2.1 The Procuring Entity has been allocated public funds as indicated in the SIT and intends to apply a portion of the funds to make eligible payments under the Contract for which this Tender Document is issued.

2.2 For the purpose of this provision, *ñpublic fundsò* means any monetary resources appropriated to Procuring Entities under Government budget, or revenues generated by statutory bodies and corporations or aid grants and credits put at the disposal of Procuring Entities by the development partners through the Government.

2.3 Payments by the development partner, if so indicated in the SIT, will be made only at the request of the Government and upon approval by the development partner in accordance with the applicable Loan/Credit/Grant Agreement, and will be subject in all respects to the Terms and Conditions of that Agreement.

Corrupt, Fraudulent, Collusive or Coercive Practices.

3.1 The Government requires that all parties involved in public procurement, including Procuring Entities, Tenderers, Suppliers, Contractors, and Consultants, shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public funds.

3.2 In pursuance of this requirement, the Procuring Entity shall :

- (a) exclude the Tenderer from participation in the procurement proceedings concerned or reject a proposal for award ; and
- (b) declare a Tenderer ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public funds; if it, at any time, determines that the Tenderer has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under public funds.

3.3 Should any corrupt, fraudulent, collusive or coercive practice of any kind come to the knowledge of the Procuring Entity, it shall, in the first place, allow the Tenderer to provide an explanation and shall, take actions only when a satisfactory explanation is not received. Such exclusion and the reasons thereof, shall be recorded in the record of the procurement proceedings and promptly communicated to the Tenderer concerned. Any communications between the Tenderer and the Procuring Entity related to matters of alleged fraud or corruption shall be in writing.

3.4 In pursuance of this policy, no Tenderer or Procurement Official shall engage in any :

- (a) corrupt practice, which means the offering, giving, receiving, or soliciting of anything of value to influence the action of a public official in the procurement process or in contract execution ;
- (b) fraudulent practice, which means a misrepresentation or omission of facts in order to influence a procurement process or contract execution to the detriment of the Employer ;
- (c) collusive practices, which means a scheme or an arrangement between two or more tenderers with or without the knowledge of the Employer, including non-disclosure of subsidiary relationships, designed to establish bid prices at artificial, non-competitive levels thereby depriving the Employer of the benefits of free and open competition ;
- (d) coercive practice, which means harming or threatening to harm, directly or indirectly, persons, or their property to influence their participation in a procurement process, or affect the execution of a contract.

3.5 The Tenderer shall be aware of the provisions on fraud and corruption stated in GCC Clause 3 and GCC Sub-Clause 38.1(c).

3.6 The Government requires that the Procuring Entity's personnel have an equal obligation not to solicit, ask for and/or use coercive methods to obtain personal benefits in connection with the said proceedings.

Eligible Tenderers.

4.1 This Invitation for Tenders is open to eligible Tenderers from [all countries], [except for any specified in the SIT]. In order to be eligible for public procurement, Tenderers must :

- (a) have the necessary professional and technical qualifications, managerial competence, bonafide reputation, financial viability, equipment and other physical facilities, including after sale service where appropriate, and qualified personnel to perform the contract ;**
- (b) not have any directors who have been convicted in any country for criminal offence related to fraudulent or corruptive practices, or criminal misrepresentation or falsification of facts relating to any matter.**

4.2 A Tenderer may be a physical or juridical individual or body of individuals, or company, association or any combination of them under agreement in the form of an intended or existing joint venture, consortium or association (JVA), invited to take part in public procurement or seeking to be so invited or submitting a Tender in response to an Invitation for Tenders. All members of the JVA shall be jointly and severally liable to the Procuring Entity. JVA is distinct from Supplier, Sub-supplier arrangement where the entire responsibility for Contract execution rests with the Supplier.

4.3 A Government-owned Enterprise in Nigeria may also participate in the Tender if it is legally and financially autonomous, operates under commercial law, and is not a dependent Agency of the Procuring Entity.

4.4 The Tenderer shall provide in Section 5 : Tender and Contract Forms, a statement that the Tenderer (including all members of a JVA) is not associated, nor has been associated in the past, directly or indirectly, with a Consultant or any other Entity that has prepared the specifications and other documents for this Invitation for Tenders.

4.5 The Tenderer shall not be under a declaration of ineligibility for corrupt, fraudulent, collusive or coercive practices in accordance with ITT Sub-Clause 3.2.

4.6 The Tenderer with a consistent history of litigation or a number of arbitration awards against it, shall not be eligible to Tender. The Tenderer shall supply the information requested in para 3.3 of the Tenderer Information Sheet (Form G-4)

4.7 The Tenderer shall have the legal capacity to enter into the Contract.

4.8 The Tenderer shall not be insolvent, be in receivership, be bankrupt or being wound up, its business activities shall not be suspended, and it shall not be the subject of legal proceedings for any of the foregoing.

4.9 The Tenderer shall have fulfilled its obligations to pay taxes and social security contributions under the relevant National laws and regulations.

Eligible Goods and Related Services.

5.1 All goods and related services to be supplied under the Contract are eligible, unless their origin is from a country specified in the SIT.

5.2 For purposes of this clause, ñoriginò means the place where the goods are mined, grown, or produced, or the place from which the related services are supplied.

5.3 The origin of goods and services is distinct from the nationality of the Tenderer.

Site Visit.

6.1 For goods contracts requiring installation/ commissioning/ networking or similar services at site, the Tenderer, at the Tenderer's own responsibility and risk, is encouraged to visit and examine the Site and obtain all information that may be necessary for preparing the Tender and entering into a contract for the supply of goods and related services.

6.2 The Tenderer should ensure that the Procuring Entity is informed of the visit in adequate time to allow it to make appropriate arrangements.

6.3 The costs of visiting the Site shall be at the Tenderer's own expense.

B. Tender Document

Tender Document : Sections.

7.1 The Sections comprising the Tender Document are listed below and should be read in conjunction with any Amendment issued in accordance with ITT Clause 10.

- **Section 1 Instructions to Tenderers (ITT) ;**
- **Section 2 Special Instructions to Tenderers (SIT) ;**
- **Section 3 General Conditions of Contract (GCC) ;**
- **Section 4 Special Conditions of Contract (SCC) ;**
- **Section 5 Tender and Contract Forms ;**
- **Section 6 Schedule of Requirements ;**
- **Section 7 Technical Specifications ;**
- **Section 8 Drawings ;**

7.2 The Procuring Entity will reject any Tender submission if the Tender Document was not purchased directly from the Procuring Entity.

7.3 The Tenderer is expected to examine all instructions, forms, terms, and specifications in the Tender Document as well as in Tender Amendments, if any. Failure to furnish all information or documentation required by the Tender Document may result in the rejection of the Tender.

Tender Document : Clarification.

8.1 A prospective Tenderer requiring any clarification of the Tender Document shall contact the Procuring Entity in writing at the Procuring Entity's address indicated in the SIT. The Procuring Entity will respond in writing to any request for clarification received no later than fourteen (14) days prior to the deadline for submission of Tenders.

8.2 The Procuring Entity shall forward copies of its response to all those who have purchased the Tender Document, including a description of the enquiry but without identifying its source.

8.3 Should the Procuring Entity deem it necessary to amend the Tender Document as a result of a clarification, it shall do so following the procedure under ITT Clause 10 and ITT Sub-Clause 30.3.

Tender Document: Pre-Tender Meeting.

9.1 To clarify issues and to answer questions on any matter arising in the Tender Document, the Procuring Entity may, if stated in the SIT, invite prospective Tenderers to a Pre-Tender Meeting at the place, date and time as specified in the SIT. Tenderers are encouraged to attend the meeting, if it is held.

9.2 The Tenderer is requested to submit any questions in writing so as to reach the Procuring Entity not later than five (5) working days prior to the date of the meeting.

9.3 Minutes of the Pre-Tender meeting, including the text of the questions raised and the responses given, together with any responses prepared after the meeting, will be transmitted within seven (7) days to all those who purchased the Tender Document. Any modification to the Tender Document listed in ITT Sub-Clause 7.1 that may become necessary as a result of the Pre-Tender meeting shall be made by the Procuring Entity exclusively through the issue of an Amendment pursuant to ITT Clause 10 and not through the minutes of the pre-Tender meeting.

9.4 Non-attendance at the Pre-Tender meeting will not be a cause for disqualification of a Tenderer.

Tender Document : Amendment.

10.1 At any time prior to the deadline for submission of Tenders, the Procuring Entity for any reason, on its own initiative or in response to a clarification request in writing from a Tenderer, having purchased the Tender Document, may amend the Tender Document by issuing an amendment.

10.2 Any amendment issued shall become an integral part of the Tender Document and shall be communicated in writing to all those who have purchased the Tender Document.

10.3 To give a prospective Tenderer reasonable time in which to take an amendment into account in preparing its Tender, the Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders, pursuant to ITT Sub-Clause 30.3. In the event that an amendment is issued with a period of only one-third or less of the Tendering period remaining, then the deadline for the submission of Tenders may be extended by the Procuring Entity, if so requested by a substantial number of Tenderers.

C. Qualification Criteria

General Criteria

11.1 The Tenderer shall possess the necessary professional and technical qualifications and competence, financial resources, production capability with equipment and other physical facilities, including after-sales service where appropriate, managerial capability, specific experience, reputation, and the personnel to perform the Contract.

11.2 To qualify for a multiple number of lots in a package for which tenders are invited in the Invitation for Tenders, the Tenderer shall demonstrate having resources and experience sufficient to meet the aggregate of the qualifying criteria for the individual lots.

Experience Criteria.

12.1 The Tenderer shall have the following minimum level of supply experience to qualify for supplying the Goods and Related Services under the contract :

- (a) a minimum number of years of overall experience in the supply of goods and related services as specified in the SIT ;**
- (b) specific experience in the supply of similar goods and related services as specified in the SIT ;**
- (c) a minimum production capacity or availability of equipment as specified in the SIT ; and**
- (d) in case of a Tenderer offering to supply goods which the Tenderer did not manufacture or otherwise produce, the Tenderer should have been duly authorized by the goods' manufacturer or producer to supply the goods.**

Financial Criteria.

13.1 The Tenderer shall have the following minimum level of financial capacity of qualify for the supply of goods under the contract :

- (a) The satisfactory completion of supply of similar goods of value stated in the SIT under a single contract in the last five years ; and**
- (b) Availability of minimum liquid assets or working capital or credit facilities from a Bank, as specified in the SIT.**

D. Tender Preparation

Only One Tender.

14.1 A Tenderer shall submit only one (1) Tender for each lot, either individually or as a Member in a JVA. A Tenderer who submits or participates in more than one (1) Tender for each lot will cause all the Tenders with that Tenderer's participation to be rejected.

Tender Preparation Costs.

15.1 The Tenderer shall bear all costs associated with the preparation and submission of its Tender, and the Procuring Entity shall not be responsible or liable for those costs, regardless of the conduct or outcome of the Tendering process.

Language.

16.1 The Tender, as well as all correspondence and documents relating to the Tender shall be written in the English language, unless specified otherwise in the SIT. Supporting documents and printed literature furnished by the Tenderer may be in another language provided they are accompanied by an accurate translation of the relevant passages into the English language, in which case, for purposes of interpretation of the Tender, such translation shall govern.

16.2 The Tenderer shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

17.1 The Tender prepared by the Tenderer shall comprise the following :

- (a) the Tender Submission Sheet (Form G-1) ;**
- (b) the Price Schedule (Form G-2) completed in accordance with ITT Clauses 18, 20 and 21 ;**
- (c) Original Tender Security (Form G-6) completed in accordance with ITT Clause 27 ;**
- (d) Specifications Submission Sheet (Form G-3) completed in accordance with ITT Clause 18 ;**
- (e) alternative Tenders, if permitted, in accordance with ITT Clause 19 ;**
- (f) written confirmation authorising the signatory of the Tender to commit the Tenderer, in accordance with ITT Clause 28 ;**
- (g) documentary evidence in accordance with ITT Clause 22 establishing the Tenderer's eligibility to Tender, including the Tenderer Information Sheet (Form G-4) and the Manufacturer's Authorisation Letter (Form G-5), when applicable ;**
- (h) documentary evidence in accordance with ITT Clauses 23 and 37 that the Goods and Related Services are of eligible origin and conform to the Tender Document ;**
- (i) documentary evidence in accordance with ITT Clause 24 establishing the Tenderer's qualifications to perform the contract if its Tender is accepted ; and**
- (j) any other document as specified in the SIT.**

Tender Submission Sheet, Price Schedules and Specifications Submission Sheet.

18.1 The Tenderer shall submit the completed Tender Submission Sheet (Form G-1) as furnished in Section 5: Tender and Contract Forms. This document shall be completed without any alterations to its format, filling in all blank spaces with the information requested, failing which the tender may be rejected as being non-responsive.

18.2 The Tenderer shall submit the completed Price Schedule for Goods and Related Services (Form G-2) as furnished in Section 5: Tender and Contract Forms.

18.3 The Tenderer shall submit the completed Specifications Submission Sheet (Form G-3) as furnished in Section 5: Tender and Contract Forms.

18.4 All the documents mentioned in ITT Sub-Clauses 18.1 to 18.3 shall be completed without any alterations to their format, filling in all blank spaces with the information requested, failing which the Tender may be rejected as being non-responsive.

Alternative Tenders.

19.1 Unless otherwise stated in the SIT, alternative Tenders shall not be considered.

Tender Prices and Discounts.

20.1 The prices and discounts quoted by the Tenderer in the Tender Submission Sheet (Form G-1) and in the Price Schedule (Form G-2) shall conform to the requirements specified below.

20.2 All items for each lot, as listed in Section 6: Schedule of Requirements must be listed and priced separately on the Price Schedule (Form G-2). For any item listed in the Schedule of Requirements, but not shown in the Price Schedule, it shall be assumed that the item is not included in the Tender. For any item listed in the Schedule of Requirements, but shown unpriced in the Price Schedule, it shall be assumed that the price is included in the prices of other items. In all cases the Tender shall be evaluated in accordance with ITT Sub-Clause 20.3.

20.3 Tenders are being invited either for individual lots or for any combination of lots and prices quoted shall correspond to 100% of the items and quantities specified for each lot. If so indicated in the SIT Contracts may be awarded on a lot-by-lot basis and Tenderers wishing to offer any price reduction for the award of more than one Contract shall specify in their Tender the price reductions applicable to each lot or combination of lots.

20.4 The Tenderer shall indicate on the Price Schedule (Form G-2) the unit prices (where applicable) and the total price of the lot it proposes to supply under the Contract.

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

- (a) 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 :
 - (i) on the components and raw materials used in the manufacture or assembly of goods quoted ex works or ex factory ; or
 - (ii) on the previously imported goods of foreign origin quoted ex warehouse, ex showroom or off-the-shelf ;
- (b) any local taxes (VAT and other taxes) which will be payable on the goods if the contract is awarded ;
- (c) the price for inland transportation, insurance, and other local costs incidental to delivery of the goods to their final destination, if specified in the SIT ; and
- (d) the price of other related (incidental) services, if any, listed in the SIT.

20.6 The Tenderer's separation of price components in accordance with ITT Sub-Clause 20.5 will be solely for the purpose of facilitating the comparison of Tenders by the Procuring Entity and will not in any way limit the Procuring Entity's right to contract on any of the terms offered.

20.7 Prices quoted by the Tenderer shall be fixed during the Tenderer's performance of the Contract and not be subject to variation on any account, unless otherwise specified in the SIT.

Tender Currency.

21.1 All prices shall be quoted in Naira.

Documents Establishing Eligibility of the Tenderer.

22.1 The Tenderer shall submit documentary evidence to establish its eligibility in accordance with ITT Clause 4 and, in particular, shall :

- (a) complete the eligibility declarations in the Tender Submission Sheet (Form G-1), furnished in Section 5: Tender and Contract Forms ; and**

- (b) if in accordance with ITT Sub-Clause 4.2, the Tenderer is an existing or intended JVA, it must submit the Tenderer Information Sheet (Form G-4) and a copy of the JV Agreement, or a letter of intent to enter into such an Agreement. The respective document shall be signed by all legally authorised signatories of all the parties to the existing or intended JVA, as appropriate.**

22.2 If so specified in the SIT, a Tenderer that does not manufacture or produce the Goods it offers to supply shall submit the Manufacturer's Authorisation Letter (Form G-5) furnished in Section 5: Tender and Contract Forms, to demonstrate that it has been duly authorised by the manufacturer or producer of the Goods to supply the Goods to Nigeria.

Goods and Related Services: Documents Establishing Eligibility.

23.1 To establish the conformity of the Goods and Related Services to the Tender Document, the Tenderer shall furnish as part of its Tender the documentary evidence that the goods conform to Section 7: Technical Specifications.

23.2 The documentary evidence may be in the form of literature, drawings or data, and shall consist of a detailed item by item description of the essential technical and performance characteristics of the Goods and Related Services, demonstrating the substantial responsiveness of the Goods and Related Services to those requirements of Section 7: Technical Specifications, and if applicable, a statement of deviations and exceptions. The Tenderer shall note that standards for workmanship, material, and equipment as well as references to brand names or catalogue numbers designated by the Procuring Entity in its Technical Specifications, are intended to be descriptive only and not restrictive. The Tenderer may substitute alternative standards/ brand names, etc. in its Tender provided that it demonstrates to the Procuring Entity's satisfaction that substitutions ensure substantial equivalence.

23.3 The Tenderer shall also furnish a list giving full particulars, including available sources and current prices of spare parts, special tools, etc., necessary for the proper and continuing functioning of the goods for a period to be specified in the SIT, following commencement of the use of the goods by the Procuring Entity.

Documents Establishing Qualifications of the Tenderers.

24.1 Tenderers shall submit documentary evidence to meet the qualification criteria specified in Sub-Section C, Qualification Criteria of the ITT.

24.2 Tenderers shall submit the Tenderer Information Sheet (Form G-4) furnished in Section 5: Tender and Contract Forms.

24.3 Tenderers shall include the following information and documents with their Tenders :

- (a) total monetary value of similar goods supplied for each of the last five (5) years ;**

- (b) details of major supplies of similar types of Goods over the last five (5) years, and clients who may be contacted for further information on those Contracts ;
- (c) financial reports or balance sheets or profit and loss statements or auditor's reports or bank references with documents or a combination of these demonstrating the availability of liquid assets to successfully complete the Contract ;
- (d) authority to seek references from the Tenderer's Bankers ; and
- (e) information on past (5 years) litigation in which the Tenderer has been involved or in which the Tenderer is currently involved.

24.4 Tenders submitted by a JVA shall comply with the following requirements, and any other requirements as specified in the SIT :

- (a) the Tenderer shall include all the information listed in ITT Sub-Clause 24.3 for each JVA Member ;
- (b) the Tender shall be signed so as to be legally binding on all Members ;
- (c) all Members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms ;
- (d) one of the Members will be nominated as being in charge, authorised to incur liabilities, and receive instructions for and on behalf of any and all Members of the JVA ; and
- (e) the execution of the entire Contract, including payment, shall be done exclusively with the Member in charge.

Disqualification of Tenderers

25.1 The Procuring Entity shall disqualify a Tenderer who submits a document containing false information for purposes of qualification or misleads or makes false representations in proving its qualification requirements. If such an occurrence is proven, the Procuring Entity may declare such a Tenderer ineligible, either indefinitely or for a stated period of time, from participation in future procurement proceedings.

25.2 The Procuring Entity may disqualify a Tenderer who has a record of poor performance, such as abandoning the supply, not properly completing the Contract, inordinate delays, litigation history or financial failures.

Tender Validity.

26.1 Tenders shall remain valid for the period specified in the SIT after the date of Tender submission prescribed by the Procuring Entity, pursuant to ITT Clause 30. A Tender valid for a shorter period shall be rejected by the Procuring Entity as non-responsive.

26.2 In exceptional circumstances, prior to the expiration of the Tender validity period, the Procuring Entity may solicit the Tenderers' consent to an extension of the period of validity of their Tenders. The request and the responses shall be made in writing. The Tender Security provided under ITT Clause 27, shall also be suitably extended promptly. If a Tenderer does not respond or refuses the request it shall not forfeit its Tender Security, but its Tender shall no longer be considered in the evaluation proceedings. A Tenderer agreeing to the request will not be required or permitted to modify its Tender.

Tender Security.

27.1 The Tenderer shall furnish as part of its Tender, a Tender Security in original form (Form G-6) and in the amount specified in the SIT.

27.2 The Tender Security shall :

(a) at the Tenderer's option be either ;

(i) in the form of a bank draft or pay order ; or

(ii) in the form of an irrevocable bank guarantee (Form G-6) issued by a commercial Bank of Nigeria in the format furnished in Section 5 : Tender and Contract Forms ;

(b) be payable promptly upon written demand by the Procuring Entity in the case of the conditions listed in ITT Sub-Clause 27.5 being invoked ; and

(c) remain valid for a period of twenty-eight (28) days beyond the original validity period of Tenders, or beyond any period of extension subsequently requested in ITT Sub-Clause 26.2.

27.3 A Tender not accompanied by a valid Tender Security in accordance with ITT Sub-Clause 27.2, shall be rejected by the Procuring Entity as non-responsive.

27.4 Unsuccessful Tenderers' Tender Securities will be discharged or returned within twenty-eight (28) days of the end of the Tender validity period specified in ITT Sub-Clause 26.1 and 26.2. The Tender Security of the successful Tenderer will be discharged upon the successful Tenderer's furnishing of the Performance Security pursuant to ITT Clause 50 and signing the Contract Agreement.

27.5 The Tender Security may be forfeited :

- (a) if a Tenderer withdraws its Tender during the period of Tender validity specified by the Tenderer on the Tender Submission Sheet, except as provided in ITT Sub-Clause 26.2 ; or
- (b) if the successful Tenderer fails to :
 - (i) accept the correction of its Tender Price pursuant to ITT Sub-Clause 39.3 ; or
 - (ii) furnish a Performance Security in accordance with ITT Clause 50 ; or
 - (iii) sign the Contract in accordance with ITT Clause 51.

27.6 The Tender Security of a JVA shall be in the name of the JVA that submits the Tender. If the JVA has not been legally constituted at the time of tendering, the Tender Security shall be in the name of all intended JVA members as named in the letter of intent mentioned in ITT Sub-Clause 22.1(b).

Tender Format and Signing.

28.1 The Tenderer shall prepare one (1) original of the documents comprising the Tender as described in ITT Sub-Clause 17.1 and clearly mark it “ORIGINAL”. In addition, the Tenderer shall prepare the number of copies of the Tender, as specified in the SIT and clearly mark each of them “COPY”. In the event of any discrepancy between the original and the copies, the original shall prevail.

28.2 The original and each copy of the Tender shall be typed or written in indelible ink and shall be signed by a person duly authorised to sign on behalf of the Tenderer. This authorisation shall consist of a written authorisation and shall be attached to the Tenderer Information Sheet (Form G-4). The name and position held by each person signing the authorisation must be typed or printed below the signature. All pages of the original and of each copy of the Tender, except for un-amended printed literature, shall be numbered sequentially and signed or initialled by the person signing the Tender.

28.3 Any interlineations, erasures, or overwriting shall be valid only if they are signed or initialled by the person(s) signing the Tender.

E. Tender Submission

Tender Sealing and Marking.

29.1 The Tenderer shall enclose the original in one (1) envelope and all the copies of the Tender in another envelope, duly marking the envelopes as “ORIGINAL” and “COPY.” The two (2) envelopes shall then be enclosed and sealed in one (1) single outer envelope.

29.2 The inner and outer envelopes shall :

- (a) bear the name and address of the Tenderer ;
- (b) be addressed to the Procuring Entity at the address specified in the SIT ;
- (c) bear the name of the Tender and the Tender Number as specified in the SIT ; and

- (d) bear a statement "DO NOT OPEN BEFORE" the time and date for Tender opening as specified in the SIT.

29.3 If all envelopes are not sealed and marked as required by ITT Sub-Clause 29.2, the Procuring Entity will assume no responsibility for the misplacement or premature opening of the Tender.

Tender Submission Deadline.

30.1 Tenders must be received by the Procuring Entity at the address specified in ITT Sub-Clause 29.2 no later than the date and time as specified in the SIT.

30.2 Tenders may be hand delivered, posted by registered mail or sent by courier. The Procuring Entity shall, on request, provide the Tenderer with a receipt showing the date and time when its Tender was received.

30.3 The Procuring Entity may, at its discretion, extend the deadline for the submission of Tenders by amending the Tender Document in accordance with ITT Clause 10, in which case all rights and obligations of the Procuring Entity and Tenderers previously subjected to the old deadline shall thereafter be subject to the new deadline as extended.

Late Tenders.

31.1 Any Tender received by the Procuring Entity after the deadline for submission of Tenders in accordance with ITT Clause 30 shall be declared late, will be rejected, and returned unopened to the Tenderer.

Tender Modification, Substitution or Withdrawal.

32.1 A Tenderer may modify, substitute or withdraw its Tender after it has been submitted by sending a written notice, duly signed by the same authorised representative, and shall include a copy of the authorisation in accordance with ITT Sub-Clause 28.2, (except that no copies of the withdrawal notice are required). The corresponding substitution or modification of the Tender must accompany the respective written notice. The written notice must be :

- (a) submitted in accordance with ITT Clauses 28 and 29 (except that withdrawal notices do not require copies), and in addition, the respective envelopes shall be clearly marked "Modification" "Substitution," or "Withdrawal," and**
- (b) received by the Procuring Entity prior to the deadline prescribed for submission of Tenders, in accordance with ITT Clause 30.**

32.2 Tenders requested to be withdrawn in accordance with ITT Sub-Clause 32.1 shall be returned unopened to the Tenderers, only after the Tender opening.

32.3 No Tender shall be modified, substituted or withdrawn after the deadline for submission of Tenders specified in ITT Clause 30.

F. Tender Opening and Evaluation

Tender Opening.

33.1 The Procuring Entity shall open the Tenders in public, including modifications or substitutions made pursuant to ITT Clause 32, at the time, on the date, and at the one place specified in the SIT. Tenders for which an acceptable notice of withdrawal has been submitted pursuant to ITT Clause 32 shall not be opened. Tenderers or their authorised representatives shall be allowed to attend and witness the opening of Tenders, and shall sign a register evidencing their attendance.

33.2 The name of the Tenderer, Tender modifications, substitutions or withdrawals, total amount of each Tender, number of corrections, discounts, and the presence or absence of a Tender Security, any alternatives if so permitted, and such other details as the Procuring Entity, at its discretion, may consider appropriate, shall be read out aloud and recorded. Only those discounts and alternative offers read out at the Tender opening shall be considered for evaluation. All pages of the original of the Tenders, or mutually agreed on critical pages, as appropriate except for un-amended printed literature, will be initialled by competing Bidders and a minimum of three (3) members of the Procuring Entity's Tender Opening Committee.

33.3 Minutes of the Tender opening shall be made by the Procuring Entity and furnished to any Tenderer upon receipt of a written request. The minutes shall include, as a minimum: the name of the Tenderer and whether there is a withdrawal, substitution or modification, the Tender Price, per lot if applicable, including any discounts and alternative offers, and the presence or absence of a Tender Security, if one was required.

33.4 Tenders not opened and read out at the Tender opening shall not be considered, irrespective of the circumstances, and shall be returned unopened to the Tenderer.

33.5 No Tender shall be rejected at the Tender opening, except for late Tenders, which shall be returned unopened to the Tenderer pursuant to ITT Clause 31.

Confidential-ity.

34.1 After the opening of Tenders, information relating to the examination, clarification, and evaluation of Tenders and recommendations for award shall not be disclosed to Tenderers or other persons not officially concerned with the evaluation process until after the award of the Contract is announced.

Tender Clarification.

35.1 The Procuring Entity may ask Tenderers for clarification of their Tenders in order to facilitate the examination and evaluation of Tenders. The request for clarification and the response shall be in writing, and any changes in the prices or substance of the Tender shall not be sought,

offered or permitted, except to confirm the correction of arithmetical errors discovered by the Procuring Entity in the evaluation of the Tenders, in accordance with ITT Clause 39.

Tenderers Contacting the Procuring Entity.

36.1 Following the opening of the Tenders and until the Contract is signed no Tenderer shall make any unsolicited communication to the Procuring Entity or try in any way to influence the Procuring Entity's examination and evaluation of the Tenders.

36.2 Any effort by a Tenderer to influence the Procuring Entity in its decisions on the examination, evaluation, comparison, and post-qualification of the Tenders or Contract award may result in the rejection of its Tender.

36.3 Notwithstanding ITT Sub Clause 36.1, from the time of Tender opening to the time of Contract award, if any Tenderer wishes to contact the Procuring Entity on any matter related to the tendering process, it should do so in writing.

Tender Responsiveness.

37.1 The Procuring Entity's determination of a Tender's responsiveness is to be based on the contents of the Tender itself without recourse to extrinsic evidence.

37.2 A substantially responsive Tender is one that conforms in all respects to the requirements of the Tender Document without material deviation, reservation, or omission. A material deviation, reservation, or omission is one that :

- (a) affects in any substantial way the scope, quality, or performance of the Goods and Related Services specified in the Contract ; or
- (b) limits in any substantial way ; or is inconsistent with the Tender Document, the Procuring Entity's rights or the Tenderer's obligations under the Contract ; or
- (c) if rectified would unfairly affect the competitive position of other Tenderers presenting substantially responsive Tenders.

37.3 If a Tender is not substantially responsive to the Tender Document it shall be rejected by the Procuring Entity and shall not subsequently be made responsive by the Tenderer by correction of the material deviation, reservation or omission.

37.4 There shall be no requirement as to the minimum number of responsive Tenders.

Non-conformities, Errors, and Omissions.

38.1 The Procuring Entity may regard a Tender as responsive even if it contains minor deviations that do not materially alter or depart from the characteristics, terms, conditions and

other requirement set forth in Tender Document or if it contains errors or oversights that are capable of being corrected without affecting the substance of the Tender.

38.2 Provided that a Tender is substantially responsive, the Procuring Entity may request that the Tenderer submits the necessary information or documentation, within a reasonable period of time, to rectify nonmaterial nonconformities or omissions in the Tender related to documentation requirements. Such omission shall not be related to any aspect of the price of the Tender. Failure by the Tenderer to comply with the request may result in the rejection of its Tender.

Correction of Arithmetical Errors.

39.1 Provided that the Tender is substantially responsive, the Procuring Entity shall correct arithmetical errors on the following basis :

- (a) if there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail and the total price shall be corrected, unless, in the opinion of the Procuring Entity, there is an obvious misplacement of the decimal point in the unit price, in which case the total price as quoted shall govern and the unit price shall be corrected ;**
- (b) if there is an error in a total corresponding to the addition or subtraction of subtotals, the subtotals shall prevail and the total shall be corrected ; and**
- (c) if there is a discrepancy between words and figures, the amount in words shall prevail, unless the amount expressed in words is related to an arithmetical error, in which case the amount in figures shall prevail subject to (a) and (b) above.**

39.2 Any arithmetical error or other discrepancy, as stated in ITT Sub-Clause 39.1, is found it shall be immediately notified to the concerned Tenderer.

39.3 Any Tenderer that does not accept the correction of errors as determined by the application of ITT Sub-Clause 39.1, its Tender shall be disqualified and its Tender Security may be forfeited.

Preliminary Examination.

40.1 The Procuring Entity shall firstly examine the Tenders to confirm that all documentation requested in ITT Clause 17 have been provided, and to determine the completeness of each document submitted.

40.2 The Procuring Entity shall assess whether the Tenderer's Qualifications as per Section C of the SIT are substantially met. Any negative determination by the Procuring Entity will result in rejecting the Tender as non-responsive without the need for further evaluation as per ITT Clauses 41 and 42.

Tender: Technical Evaluation.

41.1 The Procuring Entity shall secondly examine the Tender to confirm that all terms and conditions specified in the GCC and the SCC have been accepted by the Tenderer without any material deviation or reservation.

41.2 The Procuring Entity shall evaluate the technical aspects of the Tender submitted in accordance with ITT Clause 23, to confirm that all requirements specified in Section 7: Technical Specifications, have been met without any material deviation or reservation.

41.3 If, after the examination of the Terms and Conditions and the Technical aspects of the Tender, the Procuring Entity determines that the Tender is not substantially responsive in accordance with ITT Clause 37, it shall reject the Tender.

Financial Evaluation.

42.1 The Procuring Entity shall thirdly evaluate each Tender that has been determined, up to this stage of the evaluation, to be substantially responsive.

42.2 To evaluate a Tender, the Procuring Entity shall consider the following :

- (a) the Tender price as quoted in accordance with ITT Clauses 18 and 20, excluding local taxes (VAT and other taxes) which will be payable on the goods if contract is awarded) ;
- (b) price adjustment for correction of arithmetical errors pursuant to ITT Sub-Clause 39.1 ;
- (c) the applicable economic factors of evaluation set out in ITT Sub-Clause 42.3.

42.3 The Procuring Entity's economic evaluation of a Tender will take into account, in addition to the delivered price offered in accordance with ITT Sub-Clause 18.1, one or more of

the factors affecting the economic value of the Tender from the list below, as specified in the SIT, and as quantified in ITT Sub-Clause 42.5 :

- (a) the delivery schedule offered in the Tender ; and
- (b) the cost of components, mandatory spare parts, and service ;
- (c) the availability in Nigeria of spare parts and after-sales services for the equipment offered in the Tender ;
- (d) the projected operating and maintenance costs during the anticipated life-cycle of the equipment ;
- (e) the performance and productivity of the equipment offered ; or
- (f) any other specific criteria as specified in Section 7: Technical Specifications.

42.4 For those factors specified in ITT Sub Clause 42.3 which are selected to be considered in the evaluation of the Tenders, one or more of the following quantification methods shall be applied, as specified in the SIT.

(a) *Delivery schedule :*

- (i) The goods covered under the IFT are required to be delivered at the time specified in Section 6 : Schedule of Requirements. Treating the Tender with the earliest delivery as the base, a delivery "adjustment" will be calculated for other Tenders for the purpose of evaluation, by applying a percentage, as specified in the SIT, of the Tender price for each week of delay beyond the base, and this will be added to the Tender price for evaluation. No credit shall be given to early delivery.or
- (ii) The goods covered under the IFT are required to be delivered within an acceptable range of weeks as specified in Section 6: Schedule of Requirements. No credit shall be allowed to earlier deliveries, and Tenders offering delivery beyond this range shall be treated as non-responsive. Within this acceptable range, an adjustment per week, as specified in the SIT, will be added, for the purpose of evaluation, to the Tender price of Tenders offering deliveries later than the earliest delivery period specified in Section 6 : Schedule of Requirements. or
- (iii) The goods covered under the IFT are required to be delivered in partial shipments, as specified in Section 6 : Schedule of Requirements. Tenders offering deliveries later than the specified deliveries will be adjusted for the purpose of evaluation by adding to the Tender price a factor equal to a percentage, as specified in the SIT, of the Tender price per week of variation from the specified delivery schedule.

(b) Cost of components and mandatory spare parts :

The schedule 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 SIT is annexed to Section 7 : Technical Specifications. The total cost of these items, at the unit prices quoted in each Tender, will be added to the Tender price.

(c) Spare parts and after sales service facilities in Nigeria :

The cost to the Procuring Entity of establishing the minimum service facilities and parts inventories, as outlined in the SIT or Section 7: Technical Specifications, if quoted separately, shall be added to the Tender price.

(d) Projected operating and maintenance costs :

Operating and maintenance costs of the goods will be evaluated in accordance with the criteria specified in the SIT or in Section 7 : Technical Specifications.

(e) Performance and productivity of the equipment :

- (i)*** Tenderers shall state the guaranteed performance or efficiency of their equipment offered in response to Section 7 : Technical Specifications. For each drop in the performance or efficiency below the norm of 100, an adjustment for an amount specified in the SIT will be added to the Tender price for the purpose of evaluation, representing the capitalized cost of additional operating costs over the life of the plant, using the methodology specified in Section 7: Technical Specifications. or
- (i)*** Equipment offered shall have a minimum productivity specified under the relevant provision in Section 7: Technical Specifications, to be considered responsive. Evaluation shall be based on the cost per unit of the actual productivity of goods offered in the Tender, and adjustment will be added to the Tender prices for the purpose of evaluation, using the methodology specified in Section 7 : Technical Specifications.

(f) Specific additional criteria :

Other specific additional criteria to be considered in the evaluation and the evaluation method to be used for such criteria shall be as specified in the SIT and/or Section 7: Technical Specifications.

42.5 If so indicated in the SIT (ITT Sub-Clause 20.3), the Tender Document shall allow Tenderers to quote separate prices for one or more lots, and shall allow the Procuring Entity to award one or multiple lots to more than one Tenderer following the methodology specified in ITT Sub-Clause 42.6.

42.6 To determine the lowest evaluated lot, or combination of lots, the Procuring Entity shall :

(a) evaluate only the lot or lots which comply with the requirements specified in ITT Sub-Clause 20.3 ;

(b) take into account :

(i) the experience and resources sufficient to meet the aggregate of the qualifying criteria for the individual lots ;

(ii) the lowest-evaluated Tender for each lot calculated in accordance with the requirements of Evaluation Criteria ;

(iii) the price reduction per lot or combination of lots and the methodology for their application as offered by the Tenderer in its Tender ; and

(iv) the Contract award sequence that provides the optimum economic combination, taking into account any limitations due to constraints in supply or execution capacity determined in accordance with the post-qualification criteria under ITT Clause 45.

42.7 A margin of preference shall be applied to domestic tenders, if so specified in the SIT.

No Negotiation.

43.1 No negotiation shall be held with the lowest or any other Tenderer.

43.2 A Tenderer shall not be required, as a condition for award, to undertake responsibilities not stipulated in the Tender Document, to change its price or otherwise to modify its Tender.

Tender Comparison.

44.1 The Procuring Entity shall compare all substantially responsive Tenders to determine the lowest-evaluated Tender, in accordance with ITT Clause 42.

Post-qualification.

45.1 The Procuring Entity shall determine to its satisfaction whether the Tenderer that is selected as having submitted the lowest evaluated and substantially responsive Tender is qualified to perform the Contract satisfactorily.

45.2 The determination shall be based upon an examination of the documentary evidence of the Tenderer's qualifications submitted by the Tenderer, pursuant to ITT Clause 24, to clarifications in accordance with ITT Clause 35 and the qualification criteria indicated in ITT Clauses 11, 12 and 13. Factors not included therein shall not be used in the evaluation of the Tenderer's qualification.

45.3 An affirmative determination shall be a prerequisite for award of the Contract to the Tenderer. A negative determination shall result in rejection of the Tenderer's Tender, in which event the Procuring Entity shall proceed to the next lowest evaluated Tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

Procuring Entity's Right to Accept or to Reject Any or All Tenders.

46.1 The Procuring Entity reserves the right to accept any Tender, to annul the Tender process, or to reject any or all Tenders, at any time prior to contract award, without incurring any liability to the affected Tenderers, or any obligation to inform Tenderers of the grounds for the Procuring Entity's actions..

G. Contract Award

Award Criteria.

47.1 The Procuring Entity shall award the Contract to the Tenderer whose offer is substantially responsive to the Tender Document and has been determined to be the lowest evaluated responsive Tender, provided further that the Tenderer is determined to be qualified to perform the Contract satisfactorily.

Procuring Entity's Right to Vary Quantities.

48.1 The Procuring Entity reserves the right at the time of Contract Award to increase or decrease the quantity, per item, of Goods and Related Services originally specified in Section 6: Schedule of Requirements, provided this does not exceed the percentages indicated in the SIT, and without any change in the unit prices or other terms and conditions of the Tender and the Tender Document.

Notification of Award.

49.1 Prior to the expiration of the period of Tender validity, the Procuring Entity shall notify the successful Tenderer, in writing, that its Tender has been accepted.

49.2 Until a formal Contract is prepared and executed, the Notification of Award shall constitute a binding Contract.

49.3 The Notification of Award shall state the value of the proposed Contract, the amount of the Performance Security, the time within which the Performance Security shall be submitted and the time within which the Contract shall be signed.

Per-formance Security.

50.1 Within fourteen (14) days of the receipt of Notification of Award from the Procuring Entity, the successful Tenderer shall furnish Performance Security for the due performance of the

Contract in the amount specified in the SIT, using for that purpose the Performance Security Form (Form G-8) furnished in Section 5: Tender and Contract Forms.

50.2 The Performance Security shall be valid until a date twenty-eight (28) days after the date of completion of the Supplier's performance obligations under the Contract, including any Warranty obligations.

50.3 The proceeds of the Performance Security shall be payable to the Procuring Entity unconditionally upon first written demand as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract.

Contract: Signing.

51.1 At the same time as the Procuring Entity issues the Notification of Award, the Procuring Entity shall send the Contract Agreement and all documents forming the Contract, to the successful Tenderer.

51.2 Within twenty-one (21) days of receipt of the Contract Agreement, and within one week after having delivered a valid Performance Security to the Procuring Entity, the successful Tenderer shall sign, date and return the Contract Agreement to the Procuring Entity.

51.3 Failure of the successful Tenderer to submit the Performance Security pursuant to ITT Clause 50 or sign the Contract pursuant to ITT Sub-Clause 51.2 shall constitute sufficient grounds for the annulment of the award and forfeiture of the Tender Security. In that event, the Procuring Entity may award the Contract to the next lowest evaluated responsive Tenderer at their quoted price (corrected for arithmetical errors), who is assessed by the Procuring Entity to be qualified to perform the Contract satisfactorily.

51.4 Immediately upon receipt of the signed Contract Agreement and Performance Security from the successful Tenderer, the Procuring Entity shall discharge and return the successful Tenderer's Tender Security.

Advising Unsuccessful Tenderers.

52.1 Upon the successful Tenderer furnishing Performance Security pursuant to ITT Clause 50, and signing the Contract pursuant to ITT Sub-Clause 51.2, the Procuring Entity shall also notify all other Tenderers that their Tenders have been unsuccessful.

52.2 The Procuring Entity shall promptly respond in writing to any unsuccessful Tenderer who, after notification in accordance with ITT Sub-Clause 52.1, requests in writing for the Procuring Entity to communicate the grounds on which its Tender was not selected.

Tenderers Right to Complain.

53.1 Any Tenderer has the right to complain if it has suffered or may suffer loss or damage in accordance with paragraphs 23-27 of the Public Procurement Regulations for Goods and Works, dated June 4th, 2007.

53.2 The complaint shall firstly be processed through an administrative review following the procedures set out in paragraph 24 of the Public Procurement Regulations for Goods and Works. The place and address for the first step in the submission of complaints to the Administrative Authority is provided in the SIT.

53.3 If not satisfied with the outcome of the administrative review, the Tenderer may complain to the BPP pursuant to paragraph 25 of the Public Procurement Regulations for Goods and Works.

Section 2. Special Instructions to Tenderers

Instructions for completing the Special Instructions to Tenderers are provided, as needed, in the notes in italics mentioned for the relevant ITT clauses.

ITT Clause Amendments of, and Supplements to, Clauses in the Instruction to Tenderers

A. General

ITT 1.1 The Procuring Entity is *[state name of Procuring Entity]* represented by *[state name of representative]*.*[the Procuring Entity is the unit or subdivision of the Procuring Entity which will issue the Notification of Award and sign the Contract Agreement with the successful Tenderer. Frequently the Procuring Entity is represented by a Permanent Secretary, Director-general, Managing Director or other assigned person. See Regulations for definition of a Procuring Entity.]*

The Name of the Tender is :

The number and identification of lots comprising the Tender are :

[if there is more than one lot, individual lots are to be identified in conformity with Section 6: Schedule of Requirements].

ITT 2.1 The source of public fund is *[state source of funds, FGN or other source of funds]*.

ITT 2.3 The name of the Development Partner is *[state name of Development Partner]*

ITT 4.1 Tenderers from the following countries are not eligible:

ITT 5.1 Goods and Related Services from the following counties are not eligible:

B. Tender Document

ITT 8.1 For clarification of Tender purposes only, the Procuring Entity's address is:
Attention : Address : Telephone : Facsimile number: Electronic mail address:

ITT 9.1 A Pre- Tender meeting shall not be held, OR
The Pre- Tender meeting shall be held at Address: Date : Time :

C. Qualification Criteria

ITT 12.1(a) The Tenderer shall have a minimum of *[state number]* years of overall experience in the supply of goods and related services.

- ITT 12.1(b)** The Tenderer shall have a minimum of *[state number]* years of specific experience in the supply of similar goods and related services.
- ITT 12.1(c)** The minimum production capacity or availability of equipment is/ are:*[state “None” if not applicable]*
- ITT 13.1(a)** The minimum supply value of goods under a single contract in the last five years is Naira. *[state value][state “None” if not applicable]*
- ITT 13.1(b)** The minimum amount of liquid asset or working capital or credit facility is Naira. *[state value][state “None” if not applicable]*

D. Preparation of Tender

- ITT 16.1** The Tender, as well as all correspondence and documents relating to the Tender shall be written in the *English* language.
- ITT 17.1(j)** The Tenderer shall submit with its Tender the following additional documents:*[In cases of purchase of capital equipment by the Supplier as part of its overall Contract, a Performance Statement of the capital equipment in Nigeria may be necessary and may be requested. If no other documents are required the specify “none”.]*
- ITT 19.1** Alternative Tenders will not be permitted, OR
Alternative Tenders will be permitted.*[If alternative Tenders are permitted then outline the method and evaluation criteria for such alternatives].*
- ITT 20.3 & ITT 42.5** Tenders are being invited for a single lot, OR
Tenders are being invited for *[state number, maximum 4]* lots. *[Mention the Lot Numbers above for Tenders that anticipate the award of more than one Contract and state that Tenderers can submit a Tender for one or more lots in the package. Tenderers will indicate in their Tender any discounts or cross-discounts which they offer for the award of more than one Contract.]*
- ITT 20.5 (c)** The final destination of the goods is *[name destination]*.*[this may either be the place at which the goods are required, a Procuring Entity’s warehouse, or some other point at which the goods are to be consigned.]*
- ITT 20.5 (d)** The Tenderer shall submit prices for the following incidental services:*[If the goods supply includes installation, commissioning, training, etc., then list above the services required, mentioning all incidental services, other than the delivery related services which are covered in ITT 20.5(c)]*
- ITT 20.7** The prices quoted by the Tenderer shall be fixed for the duration of the Contract, OR
The prices quoted by the Tenderer shall be adjustable as follows:*[If prices shall be adjustable, the methodology for adjustment should now be specified.]*
- ITT 22.2** A Manufacturer’s Authorisation Letter is not required, OR
A Manufacturer’s Authorisation Letter is required for all the items listed in Section 6: Schedule of Requirements, OR
A Manufacturer’s Authorisation Letter is only required for the following items listed in Section 6: Schedule of Requirements.*[delete as appropriate]*
- ITT 26.1** The Tender validity period shall be *[é ..]* days.*[normally 60 to 120 days for simple cases of purchase of goods and up to 150 days for more complex purchases of Goods and Related Services].*

ITT 27.1 The amount of the Tender Security shall be [Naira] *[The Tender Security shall be issued by a reputable bank or financial institution selected by the Tenderer and acceptable to the Procuring Entity. A Tenderer may request the Procuring Entity in advance if a particular issuing entity of a Security is acceptable. If an issuing entity is foreign but the security is otherwise in conformity with the requirements in the Tender Document, the Employer shall not reject the Security.][For more than one lot in a package, the Tender Security for each lot should be mentioned separately. The Tender Security amount should be expressed as a fixed amount (around 2% and in no case exceeding 5% of the estimated contract value) for each lot, OR A Tender Security shall not be required*

ITT 28.1 In addition to the original of the Tender, [] copies shall be submitted.*[usually only three copies are needed, ask for more only if they are essential].*

E. Submission of Tender

ITT 29.2(b) For Tender submission purposes only, the Procuring Entity's address is: Attention: Address: The deadline for submission of Tenders is [state time] on [state date].

ITT 29.2(c) The inner and outer envelope shall bear the following additional identification marks:*[indicate any markings that are required on the inner and outer envelopes].*

F. Opening and Evaluation of Tenders

ITT 33.1 The Tender opening shall take place at: Address: On Time & Date:

ITB 42.4 The applicable economic factors for evaluation shall be as follows:*[Select as appropriate from criteria listed in ITT Clause 42.4, retaining only the evaluation method applicable and the relevant parameters corresponding to the retained criteria].*

ITT 42.4(a) The following quantification methods shall be applied. Delivery schedule.

Option (i), or adjustment expressed as a percentage,

Option (ii), or adjustment expressed a percentage,

Option (iii) adjustment expressed as a percentage

[a rate of one-half (0.5) percent per week is a reasonable figure]

ITT 42.4(b) Cost of components and mandatory spare parts*[Specify the applicable factors (e.g., number of years) and reference to the Appendix to the Technical Specifications, as required. State "None" if not applicable]*

ITT 42.4(c) Spare parts and after-sales service facilities in Nigeria.*[Minimum service facilities and parts inventories or reference to the Technical Specifications. State "None" if not applicable]*

ITT 42.4 (d) Projected operating and maintenance costs. Factors for calculation of the life cycle cost :

(i) number of years for life cycle *[The life cycle is the period after which the Procuring Entity would normally expect to replace the procured goods] ;*

(ii) operating costs *[e.g., fuel and /or other input, unit cost, and annual and total operational requirements] ;*

(iii) maintenance costs *[e.g., spare parts – without duplication of above Clause 42.4(b) requirements – and/or other inputs], and*

(iv) rate, as a percentage, to be used to discount all annual future costs calculated under (ii) and (iii) above to present value.

OR,

Reference to the methodology specified in the Technical Specifications or elsewhere in the Tender Document. [state “None” if not applicable].

ITT 42.4(e) Performance and productivity of equipment.[Specify the applicable procedure and the adjustment factor as required. The adjustment factor should apply to the norm that shall be used and that shall either be specified in the Technical Specifications or shall be the value committed in the responsive bid with the best guaranteed performance or productivity. State “None” if not applicable]

ITT 42.7 A margin of preference (specify : “applies” or “does not apply”) to domestic suppliers. (And if it applies, add “the margin of preference amounts to percent of the evaluated Contract Price). [A margin of preference only applies to domestic suppliers in the event of international competition and should not exceed 15% % of the evaluated Contract Price. The procedure for evaluating tenders subject to domestic preference is attached under H – Evaluation Criteria for Domestic Preference].

G. Award of Contract

ITT 48.1 The maximum percentage by which quantities per item may be increased is [state percentage].The maximum percentage by which quantities per item may be decreased is [state percentage].[in both instances the maximum percentage is between 15 and 20 %].

ITT 50.1 The amount of Performance Security shall be ten [10] percent of the Contract Price. [At present a fixed sum of 10 percent is stated in the Regulations]

ITT 53.2 The name and address of the Office where complaints to the Procuring Entity are to be submitted under paragraph 21 of the Public Procurement Regulations for Goods and Works is:

H. Evaluation Criteria for Domestic Preference for Goods

Where a margin of preference is granted for goods manufactured in Nigeria, responsive tenders shall be classified in one of the following two groups :

Group A : tenders from eligible domestic suppliers exclusively offering goods manufactured in Nigeria, if the eligible bidder establishes to the satisfaction of the Procuring Entity and BPP that (1) labor, raw material and components from within the country of the Procuring Entity will account for 30 percent or more of the EXW (ex factory or off-the-shelf) price of the product offered, and (2) the production facility, in which those goods will be manufactured or assembled, has been engaged in manufacturing/assembling such goods at least since the time of tender submission.

Group B : All other tenders offering goods manufactured in Nigeria,

Group C : Tenders offering goods manufactured outside Nigeria that have already been or will be directly imported.

The Procuring Entity will first review the tenders to confirm the appropriateness of, and to modify as necessary, the tender group classification to which tenderers assigned their tenders in preparing their Tender Forms and Price Schedules

The prices quoted for goods in Group A and B shall include all duties and taxes paid or payable on the basic materials or components purchased in the domestic market or imported, but shall exclude the sales and similar taxes on the finished product.

The prices quoted for goods in Group C shall be on CIP basis (place of destination which is plus cost of inland transportation and insurance to the place of destination, but exclusive of customs duties and other import taxes already paid or to be paid.)

The evaluation of tenders is carried out in the following steps.

- (a) In the first step, all tenders in each group are compared to determine the lowest responsive tender in each group. Such lowest evaluated tenders are then compared with each other, and if, as a result of this comparison, a tender from Group A or B is the lowest, it will be selected for award (i.e. no preference is needed.)
- (b) If as a result of the comparison under (a), the lowest evaluated tender is a tender from Group C, 15 percent of the evaluated CIP tender price is added to this tender from Group C (for comparison only) and the resulting price is then further compared with the lowest evaluated tender from Group A (which includes a minimum of 30 percent of value added locally). The lowest evaluated tender from this last comparison is then selected for award.

In the case of turnkey Contracts for the supply of a number of distinct items of equipment as well as major installation and/or construction services, no margin of preference shall apply.

Section 3. General Conditions of Contract

Definitions

1.1 The following words and expressions shall have the meaning hereby assigned to them. Boldface type is used to identify the defined term :

- (a) “*Completion Schedule*” means the fulfillment of the Related Services by the Supplier in accordance with the terms and conditions set forth in the Contract ;
- (b) “*Contract Agreement*” means the Agreement entered into between the Procuring Entity and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein ;
- (c) “*Contract Documents*” means the documents listed in the Contract Agreement, including any amendments thereto ;
- (d) “*Contract Price*” means the price payable to the Supplier as specified in the Contract Agreement, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract ;
- (e) “*Day*” means calendar day ;
- (f) “*Delivery*” means the transfer of ownership of the Goods from the Supplier to the Procuring Entity in accordance with the terms and conditions set forth in the Contract ;
- (g) “*GCC*” mean the General Conditions of Contract ;
- (h) “*Goods*” means all of the commodities, raw materials, machineries and equipments, products and/or other materials in solid, liquid or gaseous form that the Supplier is required to supply to the Procuring Entity under the Contract, as specified in the SCC ;

- (i) **“Government”** means the Federal Government of Nigeria ;
- (j) **“Procuring Entity”** means the entity purchasing the Goods and Related Services, as specified in the SCC ;
- (k) **“Related Services”** means the services incidental to the supply of the goods, such as insurance, installation, training and initial maintenance and other similar obligations of the Supplier under the Contract ;
- (l) **“SCC”** means the Special Conditions of Contract ;
- (m) **“Subcontractor”** means any natural person, private or government entity, or a combination of the above, including its legal successors or permitted assigns, who has a Contract with the Supplier to carry out a part of the supply in the Contract, or a part of the Related Services of the Contract ;
- (n) **“Supplier”** means the natural person, private or government entity, or a combination of the above, whose Tender to perform the Contract has been accepted by the Procuring Entity and is named as such in the SCC and the Contract Agreement, and includes the legal successors or permitted assigns of the Supplier ;
- (o) **“Writing”** means any hand-written, type-written, or printed communication including telex, cable and facsimile transmission.

Contract Documents.

2.1 Subject to the order of precedence set forth in the GCC Sub-Clause 5.1, all documents forming the Contract (and all parts thereof) are intended to be correlative, complementary, and mutually explanatory.

Corrupt, Fraudulent, Collusive or Coercive Practices.

3.1 The Government requires that Procuring Entities, as well as Suppliers, shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of Contracts under public funds.

3.2 In pursuance of this requirement, the Procuring Entity shall :

- (a) exclude the Supplier from participation in the procurement proceedings concerned or reject a proposal for award ; and**
- (b) declare a Supplier ineligible, either indefinitely or for a stated period of time, from participation in procurement proceedings under public funds; if it at any time determines that the Supplier has engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Contract under public funds.**

3.3 Should any corrupt, fraudulent, collusive or coercive practice of any kind referred to in GCC Sub-Clause 3.4 hereunder come to the knowledge of the Procuring Entity, it shall, in the first place, allow the Supplier to provide an explanation and shall, take actions as stated in GCC Sub-Clause 3.2 and GCC Sub-Clause 38.1(c) only when a satisfactory explanation is not received. Such exclusion and the reasons thereof shall be recorded in the record of the procurement proceedings and promptly communicated to the Supplier concerned. Any communications between the Supplier and the Procuring Entity related to matters of alleged corrupt, fraudulent, collusive or coercive practices shall be in writing.

3.4 The Government defines, for the purposes of this provision, the terms set forth below as follows :

- (a) “*corrupt practice*”** means offering, giving, or promising to give, directly or indirectly, to any officer or employee of a Procuring Entity or other governmental/private authority or individual a gratuity in any form, an employment or any other thing or service of value, as an inducement with respect to an act or decision of, or method followed by, a Procuring Entity in connection with the procurement proceeding ;
- (b) “*fraudulent practice*”** means a misrepresentation or omission of facts in order to influence a procurement proceeding or the execution of a Contract to the detriment of the Procuring Entity ;
- (c) “*collusive practice*”** means a scheme or arrangement among two or more Tenderers with or without the knowledge of the Procuring Entity (prior to or after Tender submission) designed to establish Tender prices at artificial, non-competitive levels and to deprive the Procuring Entity of the benefits of free, open and genuine competition ; and

- (d) ***“coercive practice”*** means harming or threatening to harm, directly or indirectly, persons or their property to influence the procurement proceedings or affect the execution of a contract.

3.5 The Supplier shall permit the Procuring Entity to inspect the Supplier’s accounts and records and other documents relating to the submission of the Tender and Contract performance.

Inter-pretation.

4.1 In interpreting the GCC, singular also means plural, male also means female or neuter, and the other way around. Headings in the GCC shall not be deemed part thereof or be taken into consideration in the interpretation or construction thereof of the Contract. Words have their normal meaning under the English language unless specifically defined.

Entire Agreement

4.2 (a) The Contract constitutes the entire agreement between the Procuring Entity and the Supplier and supersedes all communications, negotiations and agreements (whether written or oral) of parties with respect thereto made prior to the date of Contract Agreement.

Amendment.

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

Non-waiver.

4.4 (a) Subject to GCC Sub-Clause 4.4 (b), no relaxation, forbearance, delay, or indulgence by either party in enforcing any of the terms and conditions of the Contract or the granting of time by either party to the other shall prejudice, affect, or restrict the rights of that party under the Contract, neither shall any waiver by either party of any breach of Contract operate as waiver of any subsequent or continuing breach of Contract.

4.4 (b) Any waiver of a party's rights, powers, or remedies under the Contract must be in writing, dated, and signed by an authorised representative of the party granting such waiver, and must specify the right and the extent to which it is being waived.

Severability.

4.5 (a) If any provision or Condition of the Contract is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and Conditions of the Contract.

4.6 Partial Supply :

(a) If partial supply is specified in the Schedule of Requirements, references in the GCC to the Supply and to the Delivery Date shall apply to any portion of the Supply (other than references to the Completion Date for the whole of the Supply).

Documents Forming the Contract and Priority of Documents.

5.1 The following documents forming the Contract shall be interpreted in the following order of priority :

- (a) the signed Contract Agreement ;**
- (b) the letter of Notification of Award**
- (c) the completed Tender Submission Sheet as submitted by the Tenderer ;**
- (d) the completed Price Schedules as submitted by the Tenderer ;**
- (e) the Special Conditions of Contract ;**
- (f) the General Conditions of Contract ;**
- (g) the Schedule of Requirements ;**
- (h) the Technical Specifications ;**
- (i) the Drawings, and ;**
- (j) any other document listed in the SCC as forming part of the Contract.**

Eligibility.

6.1 The Supplier and its Sub-Contractors shall have the nationality of a country other than those specified in the SCC.

6.2 All Goods and Related Services supplied under the Contract shall have their origin in the countries except those specified in the SCC.

Governing Language.

7.1 The Contract as well as all correspondence and documents relating to the Contract exchanged by the Supplier and the Procuring Entity shall be written in English, unless otherwise stated in the SCC. Supporting documents and printed literature that are part of the Contract may be in another language provided they are accompanied by an accurate translation of the relevant passages in English, in which case, for purposes of interpretation of the Contract, this translation shall govern.

7.2 The Supplier shall bear all costs of translation to the governing language and all risks of the accuracy of such translation.

Governing Law.

8.1 The Contract shall be governed by and interpreted in accordance with the laws of the Federal Republic of Nigeria.

Gratuities / Agency fees.

9.1 No fees, gratuities, rebates, gifts, commissions or other payments, other than those shown in the Tender or the contract, shall be given or received in connection with the procurement process or in the Contract execution.

Joint Venture, Consortium or Association (JVA).

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

Confidential Information.

11.1 The Procuring Entity and the Supplier shall keep confidential and shall not, without the written consent of the other party hereto, divulge to any third party any documents, data, or other information furnished directly or indirectly by the other party hereto in connection with the Contract, whether such information has been furnished prior to, during or following completion or termination of the Contract. Notwithstanding the above, the Supplier may furnish to its Subcontractor such documents, data, and other information it receives from the Procuring Entity to the extent required for the Subcontractor to perform its work under the Contract, in which event the Supplier shall obtain from such Subcontractor an undertaking of confidentiality similar to that imposed on the Supplier under GCC Clause 11.

11.2 The Procuring Entity shall not use such documents, data, and other information received from the Supplier for any purposes unrelated to the contract. Similarly, the Supplier shall not use such documents, data, and other information received from the Procuring Entity for any purpose other than the design, procurement, or other work and services required for the performance of the Contract.

11.3 The obligation of a party under GCC Sub-Clauses 11.1 and 11.2 above, however, shall not apply to information that :

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

11.4 The above provisions of GCC Clause 11 shall not in any way modify any undertaking of confidentiality given by either of the parties hereto prior to the date of the Contract in respect of the Supply or any part thereof.

11.5 The provisions of GCC Clause 11 shall survive completion or termination, for whatever reason, of the Contract.

Communications and Notices.

12.1 Communications between Parties (notice, request or consent required or permitted to be given or made by one party to the other) pursuant to the Contract shall be in writing to the addresses specified in the SCC.

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

12.3 A Party may change its address for notice hereunder by giving the other Party notice of such change to the address.

13.1 The Supplier shall, subject to the Procuring Entity's compliance with GCC Sub-Clause 13.2, indemnify and hold harmless the Procuring Entity and its employees and officers from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including Attorney's fees and expenses, which the Procuring Entity may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property rights registered or otherwise existing at the date of the Contract by reason of :

(a) the installation of the Goods by the Supplier or the use of the Goods in Nigeria ; and

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

13.2 If any proceedings are brought or any claim is made against the Procuring Entity arising out of the matters referred to in GCC Sub-Clause 13.1, the Procuring Entity shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the Procuring Entity's name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.

13.3 If the Supplier fails to notify the Procuring Entity within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the Procuring Entity shall be free to conduct the same on its own behalf.

13.4 The Procuring Entity shall, at the Supplier's request, afford all available assistance to the Supplier in conducting such proceedings or claim, and shall be reimbursed by the Supplier for all reasonable expenses incurred in so doing.

13.5 The Procuring Entity shall indemnify and hold harmless the Supplier and its employees, officers, and Subcontractors from and against any and all suits, actions or administrative proceedings, claims, demands, losses, damages, costs, and expenses of any nature, including Attorney's fees and expenses, which the Supplier may suffer as a result of any infringement or alleged infringement of any patent, utility model, registered design, trademark, copyright, or other intellectual property right registered or otherwise existing at the date of the Contract arising out of or in connection with any design, data, drawing, specification, or other documents or materials provided or designed by or on behalf of the Procuring Entity.

Copyright.

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

Assignment.

15.1 The Supplier shall not assign, in whole or in part, its obligations under the Contract, except with the Procuring Entity's prior written consent.

Sub contracting

16.1 The Supplier shall obtain approval of the Procuring Entity in writing of all Sub-Contracts to be awarded under the Contract if not already specified in the Tender. Sub-Contracting shall in no event relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract.

16.2 Subcontractors shall comply with the provisions of GCC Clause 3.

Supplier's Res-ponsibilities.

17.1 The Supplier shall supply all the Goods and Related Services specified in the Scope of Supply in conformity in all respects with the provisions of the Contract Agreement.

Procuring Entity's Res-ponsibilities.

18.1 The Procuring Entity shall pay the Supplier, in consideration of the provision of Goods and Related Services, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and manner prescribed in the Contract Agreement.

Scope of Supply.

19.1 The Goods and Related Services to be supplied shall be as specified in Section 6: Schedule of Requirements.

19.2 Unless otherwise stipulated in the Contract, the Supply shall include all such items not specifically mentioned in the Contract but that can be reasonably inferred from the Contract as being required for attaining delivery of the Goods and Completion Schedule of the Related Services as if such items were expressly mentioned in the Contract.

Change Orders and Contract Amendments.

20.1 The Procuring Entity may at any time order the Supplier through a notice in accordance with GCC Clause 12, to make changes within the general scope of the Contract in any one or more of the following :

(a) drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Procuring Entity provided such changes do not materially affect the scope of supply ;

(b) the method of shipment or packing ;

(c) the place of delivery ; and

(d) the Related Services to be provided by the Supplier.

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

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

Packing and Documents.

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

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

Delivery and Documents and Acceptance.

22.1 Subject to GCC Sub-Clause 20.1, the Delivery of the Goods and completion of the Related Services shall be in accordance with the Delivery and Completion Schedule specified in the Section 6: Schedule of Requirements.

22.2 The documents to be furnished by the Supplier shall be specified in the SCC, and shall be received by the Procuring Entity at least one week before arrival of the Goods and, if not received, the Supplier shall be responsible for consequent expenses.

22.3 Acceptance by the Procuring Entity shall be processed not later than fourteen (14) days from receipt of the goods at final destination in the form of an Acceptance Certificate, unless any defects in the supply, any damage during transport or any failure to meet the required performance criteria of the supply are identified and reported to the Supplier in accordance with GCC Clause 31 and GCC Clause 32. In such cases the Acceptance Certificate will be issued only for those parts of the Contract supplies which are accepted. The Acceptance Certificate for the remaining supplies will only be issued after the Supplier has remedied the defects and/or any non-conformity in accordance with GCC Clause 31 and GCC Clause 32.

Contract Price.

23.1 The Contract Price shall be as specified in the Contract Agreement subject to any additions and adjustments thereto, or deductions therefrom, as may be made pursuant to the Contract.

23.2 Prices charged by the Supplier for the Goods delivered and the Related Services performed under the Contract shall not vary from the prices quoted by the Supplier in its Tender, with the exception of any price adjustments authorised in the SCC.

Trans-~~portation~~.

24.1 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Nigeria, defined as the Site, transport to such place of destination including insurance, and other incidental costs, and temporary storage, if any, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.

Spare Parts.

25.1 As specified in the 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 Procuring Entity 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 Procuring Entity of the pending termination, in sufficient time to permit the Procuring Entity to procure needed requirements ; and

(ii) following such termination, furnishing at no cost to the Procuring Entity, the blueprints, drawings, and specifications for the spare parts, if requested.

25.2 The Supplier shall carry sufficient inventories to assure ex-stock supply of spare parts as promptly as possible, but in any case within the time specified in the SCC for placing the order and opening the Letter of Credit.

Terms of Payment.

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

26.2 The Supplier's request for payment shall be made to the Procuring Entity in writing, accompanied by an invoice describing, as appropriate, the Goods delivered and Related Services performed, and accompanied by the documents pursuant to GCC Clause 22 and upon fulfilment of any other obligations stipulated in the Contract.

26.3 Payments shall be made promptly by the Procuring Entity, no later than the dates indicated in the SCC.

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

Insurance.

27.1 Unless otherwise specified in the SCC, the Goods supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery, in the manner specified in the SCC.

Taxes and Duties.

28.1 The Supplier shall be entirely responsible for all taxes, duties, license fees, and other such levies imposed or incurred until delivery of the contracted goods to the Procuring Entity.

Performance Security.

29.1 In the case of Goods having Warranty obligations the Performance Security shall be reduced to the amount specified in the SCC after delivery and acceptance of the Goods to cover only the Supplier's Warranty obligations in accordance with GCC Sub-Clause 32.3.

29.2 The Procuring Entity shall notify the Supplier of any claim made against the Bank issuing the Performance Security.

29.3 The Procuring Entity may claim against the Security if any of the following events occurs for fourteen (14) days or more :

**(a) the Supplier is in breach of the Contract and the Procuring Entity has notified him that he is ;
and**

(b) the Supplier has not paid an amount due to the Procuring Entity.

29.3 In the event the Supplier is liable to pay compensation under the Contract amounting to the full value of the Performance Security or more, the Procuring Entity may ensure that the Supplier forfeit the full amount of the Performance Security.

29.4 If there is no reason to call the Performance Security, it shall be discharged by the Procuring Entity 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.

Specifications and Standards.

30.1 The Supplier shall ensure that the Goods and Related Services comply with technical specifications and other provisions of the Contract.

30.2 The Supplier shall be entitled to disclaim responsibility for any design, data, drawing, specification or other document, or any modification thereof provided or designed by or on behalf of the Procuring Entity, by giving a notice of such disclaimer to the Procuring Entity.

30.3 The Goods and Related Services supplied under this Contract shall conform to the standards mentioned in Section 7: Technical Specifications and, when no applicable standard is mentioned, the standard shall be equivalent or superior to the official standards whose application is appropriate to the goods's country of origin.

30.4 Wherever references are made in the Contract to codes and standards in accordance with which it shall be executed, the edition or the revised version of such codes and standards shall be those specified in the Schedule of Requirements. During Contract execution, any

changes in any such codes and standards shall be applied only after approval by the Procuring Entity and shall be treated in accordance with GCC Clause 20.

31.1 The Supplier shall at its own expense and at no cost to the Procuring Entity carry out all such tests and/or inspections of the Goods and Related Services as are specified in the Schedule of Requirements.

31.2 The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor and/or at the Goods' final destination, or in another place in Nigeria as specified in the SCC. Subject to GCC Sub-Clause 31.3, if conducted on the premises of the Supplier or its Subcontractor, all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to the Procuring Entity.

31.3 The Procuring Entity or its designated representative shall be entitled to attend the tests and/or inspections referred to in GCC Sub-Clause 31.2, provided that the Procuring Entity bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all travelling and board and lodging expenses.

31.4 Whenever the Supplier is ready to carry out any such test and inspection, it shall give a reasonable advance notice, including the place and time, to the Procuring Entity. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the Procuring Entity or its designated representative to attend the test and/or inspection.

31.5 The Procuring Entity may require the Supplier to carry out any test and/or inspection not required by the Contract, but deemed necessary to verify that the characteristics and performance of the Goods comply with the technical specifications, codes and standards under the Contract, provided that the Supplier's reasonable costs and expenses incurred in the carrying out of such test and/or inspection shall be added to the Contract Price. Further, if such test and/or inspection impede the progress of manufacturing and/or the Supplier's performance of its other obligations under the Contract, due allowance will be made in respect of the Delivery Dates and Completion Dates and the other obligations so affected.

31.6 The Supplier shall provide the Procuring Entity with a report of the results of any such test and/or inspection.

31.7 The Procuring Entity may reject any Goods or any part thereof that fail to pass any test and/or inspection or do not conform to the specifications. The Supplier shall either rectify or replace such rejected Goods or parts thereof or make alterations necessary to meet the

specifications at no cost to the Procuring Entity, and shall repeat the test and/or inspection, at no cost to the Procuring Entity, upon giving a notice pursuant to GCC Sub-Clause 31.4.

31.8 The Supplier agrees that neither the execution of a test and/or inspection of the Goods or any part thereof, nor the attendance by the Procuring Entity or its representative, nor the issue of any report pursuant to GCC Sub-Clause 31.6, shall release the Supplier from any Warranties or other obligations under the Contract.

Warranty.

32.1 The Supplier warrants that all the Goods are new, unused, and of the most recent or current models, and that they incorporate all recent improvements in design and materials, unless provided otherwise in the Contract.

32.2 Subject to GCC Sub-Clause 30.1, the Supplier further Warrants that the Goods shall be free from defects arising from any act or omission of the Supplier or arising from design, materials, and workmanship, under normal use in the conditions prevailing in Nigeria.

32.3 Unless otherwise specified in the SCC, the Warranty shall remain valid for twelve (12) months after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the SCC.

32.4 The Procuring Entity shall give notice to the Supplier stating the nature of any such defects together with all available evidence thereof, promptly following the discovery thereof. The Procuring Entity shall afford all reasonable opportunity for the Supplier to inspect such defects.

32.5 Upon receipt of such notice, the Supplier shall, within the period specified in the SCC, expeditiously repair or replace the defective Goods or parts thereof, at no cost to the Procuring Entity.

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

Extensions of Time.

33.1 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 22, the Supplier shall promptly notify the Procuring Entity in writing of the delay, its likely duration, and its cause. As soon as practicable after receipt of the Supplier's notice, the Procuring Entity shall evaluate the situation and may at its discretion extend the Supplier's time for performance, in which case the extension shall be ratified by the Parties by amendment of the Contract.

33.2 Except in the case of Force Majeure, as provided under GCC Clause 37, a delay by the Supplier in the performance of its Delivery and Completion obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 34, unless an extension of time is agreed upon, pursuant to GCC Sub-Clause 33.1.

Liquidated Damages.

34.1 Except as provided under GCC Clause 37, if the Supplier fails to deliver any or all of the Goods or perform the Related Services within the period specified in the Contract, the Procuring Entity may, without prejudice to all its other remedies under the Contract, deduct from the Contract Price, as liquidated damages, a sum equivalent to the percentage specified in the SCC of the Contract Price of the delayed Goods and/or Related Services for each week or part thereof of delay until actual delivery or performance, up to a maximum deduction of the percentage specified in those SCC. Once the maximum is reached, the Procuring Entity may terminate the Contract pursuant to GCC Clause 38.

Limitation of Liability.

35.1 Except in cases of criminal negligence or wilful misconduct ,

- (a) the Supplier shall not be liable to the Procuring Entity, whether in Contract, Tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay liquidated damages to the Procuring Entity, and**
- (b) the aggregate liability of the Supplier to the Procuring Entity, whether under the Contract, in Tort or otherwise, shall not exceed the total Contract Price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment, or to any obligation of the Supplier to indemnify the Procuring Entity with respect to patent infringement.**

Change in Laws and Regulations.

36.1 Unless otherwise specified in the Contract, if after twenty eight (28) days before the submission of Tenders for the Contract, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in Nigeria (which shall be deemed to

include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or Contract Price shall be correspondingly increased or decreased, to the extent that the Supplier has thereby been affected in the performance of any of its obligations under the Contract. Notwithstanding the foregoing, such additional or reduced cost shall not be separately paid or credited if the same has already been accounted for in the price adjustment provisions where applicable, in accordance with GCC Clause 23.

Force Majeure.

37.1 The Supplier shall not be liable for forfeiture of its Performance Security, liquidated damages, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

37.2 For purposes of this Clause, “Force Majeure” means an event or situation beyond the control of the Supplier that is not foreseeable, is unavoidable, and its origin is not due to negligence or lack of care on the part of the Supplier. Such events may include, but not be limited to, acts of the Procuring Entity in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.

37.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Procuring Entity in writing of such condition and the cause thereof. Unless otherwise directed by the Procuring Entity 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.

Termination.

38.1 Termination for Default :

(a) The Procuring Entity, without prejudice to any other remedy for breach of Contract, by giving twenty eight (28) days written notice of default, may terminate the Contract in whole or in part :

(i) if the Supplier fails to deliver any or all of the Goods within the period specified in the Contract, or within any extension thereof granted by the Procuring Entity pursuant to GCC Clause 33 ; or

(ii) if the Supplier fails to perform any other obligation under the Contract.

(b) In the event the Procuring Entity terminates the Contract in whole or in part, pursuant to GCC Sub-Clause 38.1(a), the Procuring Entity may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services similar to those undelivered or not performed, and the Supplier shall be liable to the Procuring Entity for any additional costs for such similar Goods or Related Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.

(c) If the Supplier, in the judgment of the Procuring Entity has engaged in corrupt, fraudulent, collusive or coercive practices, as defined in GCC Clause 3, in competing for or in executing the Contract.

Termination for Insolvency

38.2 (a) The Procuring Entity and the Supplier may at any time terminate the Contract by giving notice to the other party if either of the party becomes bankrupt or otherwise insolvent. In such event, termination will be without compensation to any party, provided that such termination will not prejudice or affect any right of action or remedy that has accrued or will accrue thereafter to the other party.

Termination for Convenience.

38.3 (a) The Procuring Entity, by notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for its convenience. The notice of termination shall specify that termination is for the Procuring Entity's convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.

(b) The Goods that are complete and ready for shipment within twenty-eight (28) days after the Supplier's receipt of notice of termination shall be accepted by the Procuring Entity at the Contract terms and prices. For the remaining Goods, the Procuring Entity may elect :

(i) to have any portion completed and delivered at the Contract terms and prices ; and/or

(ii) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services and for materials and parts previously procured by the Supplier.

SETTLEMENT OF DISPUTES

Amicable Settlement.

39.1 (a) The Procuring Entity and the Supplier shall use their best efforts to settle amicably all disputes arising out of or in connection with this Contract or its interpretation.

Arbitration.

39.2 (a) If the Parties are unable to reach a settlement as per GCC Clause 39.1(a) within twenty-eight (28) days of the first written correspondence on the matter of disagreement, then either Party may give notice to the other party of its intention to commence arbitration in accordance with GCC Sub-Clause 39.2(b).

(b) The arbitration shall be conducted in accordance with the Arbitration Act (é é é .) of Nigeria as at present in force and in the place shown in the SCC.

Section 4. Special Conditions of Contract

Instructions for completing the Special Conditions of Contract are provided, as needed, in the notes in italics mentioned for the relevant GCC clauses.

<i>GCC Clause</i>	<i>Amendments of, and Supplements to, Clauses in the General Conditions of Contract</i>
GCC 1.1 (h)	The nature of the goods to be supplied are <i>[give a brief description of the Goods, and any Related Services which are to be supplied.]</i>
GCC 1.1(j)	The Procuring Entity is <i>[Name, address, and name of authorized representative]</i> .
GCC 1.1(n)	The Supplier is <i>[Name, address, and name of authorized representative]</i> .
GCC 5.1(j)	The following documents shall also be part of the Contract: <i>[if there no other documents state "none"]</i>
GCC 6.1	Suppliers and Sub-contractors from the following countries are not eligible:
GCC 6.2	Goods and Related Services from the following countries are not eligible:
GCC 12.1	For <i>notices</i> , the Procuring Entity's contact details shall be : Attention : Address : Telephone : Facsimile number : Electronic mail address : For <i>notices</i> , the Supplier's contact details shall be : Attention : Address : Telephone : Facsimile number : Electronic mail address :

- GCC 21.2** A complete packing list indicating the content of each package shall be enclosed in a water proof envelope and shall be secured to the outside of the packing case. In addition, each package shall be marked with indelible ink/paint in bold letters, as follows :
- a. Contract Number
 - b. Name and address of Procuring Entity
 - c. Country of origin
 - d. Gross weight
 - e. Net weight
 - f. Package number of total number of packages
 - g. Brief description of the content.
- Upright markings, where appropriate, shall be placed on all four vertical sides of the package.
- All materials used for packing shall be environmentally neutral.
- Additional marking and documentation within and outside the packages shall be :
- [Note: The above requirements should be reviewed by the Procuring Entity on a case-by-case basis, with amendments being made as necessary.]*
- GCC 22.2** The documents to be provided are as follows :
- (a) copies of Supplier's invoice showing goods's description, quantity, unit price, total amount ;
 - (b) copies of the packing list identifying the contents of each package ;
 - (c) manufacturer's/ supplier's Warranty certificate (if any) ;
 - (d) inspection certificate issued by the nominated inspection agency (or Procuring Entity) and/ or the supplier's factory inspection report (if any) ;
 - (e) certificate of origin.*[Note: The above requirements should be reviewed by the Procuring Entity on a case-by-case basis, with amendments being made as necessary.]*
- GCC 23.2** The prices charged for the Goods delivered and the Related Services to be performed shall be fixed for the duration of the Contract. The prices charged for the goods delivered and the Related Services to be performed shall be subject to adjustment in accordance with the following price adjustment formula.*[Note: delete as appropriate. If prices are subject to adjustment, the price adjustment formula must be added by the Procuring Entity.]*
- GCC 25.1** Additional spare parts requirements are specified in Annex- [] of the Specifications.
- GCC 25.2** Within [] weeks of placing the order and opening the Letter of Credit.
- GCC 26.1** The method and conditions of payment to be made to the Supplier under this Contract shall be as follows :
- 1. The payments shall be made
 - (a) through an irrevocable confirmed Letter of Credit opened in favour of the Supplier in a commercial bank of Nigeria ; or
 - (b) direct through the accounts office of the Procuring Entity ; or
 - (c) through another account *[state which account] [delete those not appropriate]*.

2. Payments shall be made in Nigeria Naira in the following manner :

(a) *Advance Payment* : [usually ten (10)] percent of the Contract Price shall be paid within twenty-eight (28) days of signing of the Contract, and upon submission of claim and a bank guarantee for equivalent amount valid until the Goods are delivered and in the form provided in the Tender Document. *If the procurement is ICB to include participation of foreign suppliers, the advance payment for domestic suppliers may be fifteen (15) percent, while for foreign suppliers it would be ten (10) percent*].

(b) *On Shipment* : (usually 80 (eighty) percent of the Contract price of the Goods shipped shall be paid upon submission of documents specified in GCC Clause 22.2].

(c) *On Delivery and Acceptance* : [usually ten (10)] percent of the Contract Price of the Goods delivered shall be paid upon submission of documents specified in GCC Clause 22.2 within twenty eight (28) days of submission of a claim supported by the Acceptance Certificate issued by the Procuring Entity. *[The procuring Entity should amend this clause as required for the particular procurement, if Advance Payment is not applicable the clause on Advance Payment should be deleted.]*

GCC 26.4 The payment-delay period after which the Procuring Entity shall pay interest to the supplier shall be [] days. The interest rate that shall be applied is [%] percent *[Note: The interest rate shall normally be 1% above the lending rate of commercial banks in Nigeria or LIBOR + 1 if preferable.]*

GCC 27.1 All risks insurance, including war risks, riots, and/or strikes shall be acquired for 110% of the delivered cost of the goods on Warehouse to Warehouse basis.

GCC 29.1 The Performance Security shall be reduced to [%] percent of the Contract Price. *[Two to five percent of the Contract Price would be reasonable: it should not be reduced to less than two (2) percent of the Contract Price].*

GCC 31.2 The Inspections and tests shall be conducted : The Procuring Entity's right to inspect, test and where appropriate reject the Goods after delivery, shall in no way be limited or waived by the reason of Goods having previously been inspected, tested or passed by the Procuring Entity or its representative prior the Goods shipment.

GCC 32.3 The period of validity of the Warranty shall be: For purposes of the Warranty, the place of final destination shall be:

GCC 32.5 The period for repair or replacement shall be:

GCC 34.1 The liquidated damage shall be one half of one percent (0.5%) of the Contract value per week or part thereof.
The maximum amount of liquidated damages shall be: Ten (10%) of the Contract value.

GCC 39.3(b) Arbitration shall take place in :

Section 5.

Tender and Contract Forms

Form Title

Tender Forms

G-1	Tender Submission Sheet.
G-2	Price Schedule.
G-3	Specifications Submission Sheet.
G-4	Tenderer Information Sheet.
G-5	Manufacturer's Authorisation Letter.
G-6	Bank Guarantee for Tender Security.

Contract Forms

G-7	Notification of Award.
G-8	Contract Agreement.
G-9	Bank Guarantee for Performance Security.
G-10	Bank Guarantee for Advance Payment.

Forms G1 to G6 comprise part of the Tender and should be completed as stated in ITT Clause 17.

Forms G7 to G10 comprise part of the Contract as stated in GCC Clause 5.

Tender Submission Sheet (Form G – 1)

Invitation for Tender No :

Date :

Tender Package No :

To :

[Name and address of Purchase]

We, the undersigned, offer to supply in conformity with the Tender Document the following Goods and Related Services, viz :

The total price of our Tender, excluding price reduction(s) is :

Naira :

insert value in figures (insert value in words)

If applicable under Instruction to Tenderers (ITT) Sub-Clause 20.3, and in case we are awarded a Contract for more than one lot in the package, the discounts / cross- discounts offered, and the methodology for its application is :

We undertake, if our Tender is accepted, to deliver the goods in [] (weeks / months) from the date of [], in accordance with the delivery schedule specified in the Schedule of Requirements.

We are not participating as Tenderers in more than one Tender in this Tendering process. Our Tender shall be valid for the period stated in the Special Instructions to Tenderers and it shall remain binding upon us and may be accepted at any time before the expiration of that period. A Tender Security in the amount stated in the Special Instructions to Tenderers is attached in the form of a *[state pay order, bank draft, bank guarantee]* valid for a period of 28 days beyond the Tender validity date.

If our Tender is accepted, we commit to obtaining a Performance Security in the amount stated in the Special Instructions to Tenderers and valid for a period of 28 days beyond the date of completion of our performance obligations under the Contract, including any Warranty obligations.

We declare that ourselves, and any Subcontractors or Suppliers for any part of the Contract, have nationalities from eligible countries and that the goods and related services will also be supplied from eligible countries. We also declare that the Government of Nigeria has not declared us, and any subcontractors or suppliers for any part of the Contract, ineligible on charges of engaging in corrupt, fraudulent, collusive or coercive practices. We furthermore, pledge not to indulge in such practices in competing for or in executing the Contract, and are aware of the relevant provisions of the Tender Document (ITT Clause 3).

We understand that your written Notification of Award shall constitute the acceptance of our Tender and shall become a binding contract between us, until a formal contract is prepared and executed.

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

Signed

Tender on behalf of the Tenderer.

In the capacity of: Duly authorised to sign the

Date :

Price Schedule for Goods (Form G-2A)

Invitation for Tender No :
Tender Package No :

Date:

A: PRICE OF GOODS AND DELIVERY SCHEDULE

1	2	3	4	5	6	7	8	9	10
Item N°	Description of Item	Unit of Supply	Qty of units	Unit price EXW	Total price EXW (col. 4 × 5)	Extra Price to deliver Goods to final destination	Total price Delivered (col. 6 +7)	VAT and other taxes payable if Contract is awarded	Point of Required And Delivery Period Offered

Note 1/
Note 2

Note 3

Note 4

LOT No. 1 : *[enter description of Lot as specified in Section 6: Schedule of Requirements]*

[add as many rows and details as there are individual items in the Lot] [Do the below for each Lot] Same each Lot]

LOT No. 2

LOT No. 3

LOT No. 4

Note 1 : EXW means Ex-works; Ex-factory; Ex-warehouse; Ex-show-room, or off-the-shelf as applicable

Note 2 : Unit Price EXW shall include all custom duties and taxes as specified in ITT Sub-Clause 20.5 (a)

Note 3 : Price for inland transportation shall include insurance and other costs as specified in ITT Sub-Clause 20.5 (c)

Note 4 : VAT and any other taxes payable in Nigeria shall be included here as specified in ITT Sub-Clause 20.5 (b)

Name of Tenderer

Signature of Tenderer

Date

Price Schedule for Goods (Form G-2B)

Invitation for Tender No :
Tender Package No :

Date :

B : PRICE OF RELATED SERVICES AND COMPLETION SCHEDULE

1	2	3	4	5	6	7	8	9	10
Item N°	Description of Related Service	Unit of Supply	Qty of units Required	Unit price	Total price (col. 4 ´ 5)	Other Related Costs	Total price (col. 6 +7)	VAT and other taxes payable if Contract is awarded	Point of Delivery And Date Required
				Note 1/	Note 1	Note 1		Note 2	

LOT No. 1 : *[enter description of Lot as specified in Section 6: Schedule of Requirements]*

[add as many rows and details as there are individual items in the Lot] *[Do the Same below for each Lot]*

LOT No. 2

LOT No. 3

LOT No. 4

Note 1 : The Tender will complete these columns as appropriate following the details specified in Section 6 : Schedule of Requirements.

Note 2 : VAT and any other taxes payable in Nigeria shall be included here as specified in ITT Sub-Clause 20.5 (b).

Name of Tenderer

Signature of Tenderer

Date

Specifications Submission Sheet (Form G-3)

Invitation for Tender No :
Tender Package No :

Date

<i>Item No.</i>	<i>Name of Goods or related Service</i>	<i>Country of Origin</i>	<i>Make and Model (where applicable)</i>	<i>Full Technical Specifications and Standards</i>
1	2	3	4	5

FOR GOODS

Lot No. 1

*[add as many rows and
details as there are
individual items in
the Lot]*

*[the Tenderer
should complete
columns 3, 4 and
5 as required]*

Lot No. 2

Lot No. 3

Lot No. 4

FOR RELATED SERVICES

Lot No. 1

*[add as many rows
and details as there
are individual items
in the Lot]*

*[the Tenderer
should complete
columns 3, 4 and
5 as required]*

Lot No. 2

Lot No. 3

Lot No. 4

Name of Tenderer

Signature of Tenderer

Date

Tenderer Information Sheet (Form G-4)

Notes on Tenderer Information Sheet

This note is for information only to assist the procuring entity in the completion of the Form when preparing the Tender Document, but this note should not be included in the issued Tender Document. The information to be filled in by Tenderers in the following pages will be used for purposes of verification of eligibility and qualification of the Tenderer as provided for in relevant Clauses of the Instructions to Tenderers.

Invitation for Tender No:

Date

Tender Package No:

A. Individual Tenderers

1. General Information of the Tenderer

1.1 Tenderer's Legal Name

1.2 Tenderer's legal address in Country of Registration

1.3 Tenderer's legal status

Proprietorship

Partnership (Registered under the Partnership Act, 1932)

Limited Liability Concern (Registered under the Companies Act, 1913)

Others

1.4 Tenderer's Year of Registration

1.5 Tenderer's business status

Manufacturer

Local Agent/Distributor of a foreign Manufacturer

Stockist

Others

1.6 Tenderer's Authorised Representative Information

Name

Address

Telephone / Fax Numbers

e-mail address

- 1.7 Tenderer's Value Added Tax Registration Number
- 1.8 Tenderer's Income Tax Identification Number (TIN)
- 1.9 Tenderer to attach copies of the following documentation :
- (a) Articles of Incorporation or Registration of firm.
 - (b) Latest Income Tax Clearance Certificate
 - (c) Latest VAT Registration Certificate
 - (d) Original letter naming the person authorised to sign on behalf of the Tenderer
 - (e) Others (to be completed by the Procuring Entity if required)

2. *Qualification Information of the Tenderer*

- 2.1 Number of years of overall experience of the Tenderer in the supply of goods and related services :
- [write "Not applicable", if this information is not asked in ITT 12.1(a)]
- 2.2 Number of years of specific experience of the Tenderer in the supply of similar goods and related services :
- [write "Not applicable", if this information is not asked in ITT 12.1(b)]
- 2.3 Total annual monetary value of similar goods supplied in each of the last five years.
- [write "Not applicable", if this information is not asked in ITT 13.1(a)]
- 2.4 Available liquid assets
- [write "Not applicable", if this information is not asked in ITT 13.1(b)]
- 2.5 Details of production capacity/ equipment available :
- [write "Not applicable", if this information is not asked in ITT 12.1(c)]
- 2.6 Major supplies of similar type of Goods over the last five years. Also list details of supplies of similar type of Goods under way or committed, including expected delivery date.

3. *Financial Information of the Tenderer*

- 3.1 Financial reports or balance sheets or profit and loss statements or auditors' reports or bank references with documents or a combination of these demonstrating availability of liquid assets. List below and attach copies.

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

3.3 Information on litigation in which the Tenderer is, or has been, involved :

(a) Any case within the past five years

Cause of Dispute

Result of Settlement and amount involved

(b) Current cases in this financial year

Cause of Dispute

Current Position of Case

Note: The above represents the minimum requirements. These may be amended by the Procuring Entity on a case-by-case basis, as necessary.

B. Individual Members of a Joint Venture

4.1 Each Member of a JVA shall provide all the information requested in the form above, Sections 1-3.

4.2 Attach a power of attorney for each of the authorising signatories of the Tender on behalf of the JVA.

4.3 Attach the Agreement among all Members of the JVA (and which is legally binding on all Members), which shows that :

(a) all Members shall be jointly and severally liable for the execution of the Contract in accordance with the Contract terms ;

(b) one of the Members will be nominated as being in charge, authorised to incur liabilities, and receive instructions for and on behalf of any and all Members of the joint venture ; and

(c) the execution of the entire Contract, including payment, shall be done exclusively with the Member in charge.

Note: The above represents the minimum requirements. These may be amended by the Procuring Entity on a case-by-case basis, as necessary.

Manufacturer's Authorisation Letter (Form G - 5)

[This letter of authorisation should be on the letterhead of the manufacturer and should be signed by the person with the proper authority to sign documents that are binding on the manufacturer]

Invitation for Tender No :

Date :

Tender Package No :

To:Name and address of Procuring Entity]

WHEREAS, we *[name and address of manufacturer]* are reputable manufacturers having factories at *[list of places of factories]*.

THEREFORE, we do hereby :

1. Authorise *[name of Tenderer]* to submit a Tender in response to the Invitation for Tenders indicated above, the purpose of which is to provide the following Goods, *[description of goods]*, manufactured by us, and to subsequently sign the Contract for the supply of such Goods; and,

2. Extend our full guarantee and warranty in accordance with GCC Clause 32, with respect to the Goods offered in the Tender.

Signed

In the capacity of :
Duly authorised to sign
the authorisation for and on
behalf of

[name of manufacturer]

Date :

Bank Guarantee for Tender Security (Form G – 6)

*[this is the format for the Tender Security to be issued by a commercial bank
of Nigeria in accordance with ITT Clause 27]*

Invitation for Tender No :

Date :

Tender Package No :

To :

[Name and address of Procuring Entity]

TENDER GUARANTEE No:

We have been informed that *[name of Tenderer]* (hereinafter called "the Tenderer") intends to submit to you its Tender dated *[date of Tender]* (hereinafter called "the Tender") for the supply of *[description of goods and related services]* under the above Invitation for Tenders (hereinafter called "the IFT").

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

At the request of the Tenderer, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and in words]* upon

receipt by us of your first written demand accompanied by a written statement that the Tenderer is in breach of its obligation(s) under the Tender conditions, because the Tenderer:

(a) has withdrawn its Tender during the period of Tender validity specified by the Tenderer in the Form of Tender ; or

(b) does not accept the correction of errors in accordance with the Instructions to Tenderers of the IFT; or

(c) having been notified of the acceptance of the Tender by the Procuring Entity during the period of Tender validity, (i) fails or refuses to furnish the Performance Security in accordance with the ITT, or (ii) fails or refuses to execute the Contract Form,

This guarantee will expire :

(a) if the Tenderer is the successful Tenderer, upon our receipt of a copy of the Performance Security and a copy of the Contract signed by the Tenderer as issued by you; or

(b) if the Tenderer is not the successful Tenderer, twenty eight days after the expiration of the Tenderer's Tender validity period, being *[date of expiration of the Tender]*.

Consequently, we must receive at the above-mentioned office any demand for payment under this Guarantee on or before that date.

Signature

Signature

Notification of Award (Form G - 7)

Contract No :

Date :

To :

This is to notify you that your Tender dated *[insert date]* for the supply of goods and related services for *[name of project/contract]* for the Contract Price of Naira *[amount in figures and in words]*, as corrected and modified in accordance with the Instructions to Tenderers is hereby accepted by *[name of Procuring Entity]*.

You are requested to proceed with the supply of the goods and the related services and note that this Notification of Award shall constitute the formation of a Contract, which shall only become binding upon you furnishing a Performance Security within 14 days, in accordance with ITT Clause 50, and the signing of the Contract Agreement within 21 days, in accordance with ITT Clause 51.

We attach the Contract Agreement and Contract Documents for you perusal and signature.

Signed

Duly authorised to sign for and on behalf of
[name of Procuring Entity]

Date :

Contract Agreement (Form G - 8)

THIS AGREEMENT made this *[day]* day of *[month]* *[year]* between *[name and address of Procuring Entity]* (hereinafter called "the Procuring Entity") of the one part and *[name and address of Supplier]* (hereinafter called "the Supplier") of the other part:

WHEREAS the Procuring Entity invited Tenders for certain goods and related services, viz, *[brief description of goods and related services]* and has accepted a Tender by the Supplier for the supply of those goods and related services in the sum of Naira *[Contract Price in figures and in words]* (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 General Conditions of Contract hereafter referred to.

2. The documents forming the Contract shall be interpreted in the following order of priority:

- (a) the signed Form of Contract Agreement ;
- (b) the letter of Notification of Award ;
- (c) the completed Tender Submission Sheet as submitted by the Tenderer ;
- (d) the completed Price Schedules as submitted by the Tenderer ;
- (e) the Special Conditions of Contract ;
- (f) the General Conditions of Contract ;
- (g) the Schedule of Requirements ;
- (h) the Technical Specifications ;
- (i) the Drawings, and ;
- (j) any other document listed in the SCC as forming part of the Contract.

3. In consideration of the payments to be made by the Procuring Entity to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Procuring Entity to provide the goods and related services and to remedy any defects therein in conformity in all respects with the provisions of the Contract.

4. The Procuring Entity hereby covenants to pay the Supplier in consideration of the provision of the goods and related services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

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

For the Procuring Entity :

For the Supplier :

Signature

Print Name

Title

In the presence of
Name

Address

Bank Guarantee for Performance Security (Form G – 9)

[this is the format for the Performance Security to be issued by a commercial bank of Nigeria in accordance with ITT Clause 50]

Contract No :

Date :

To :

[Name and address of Procuring Entity]

PERFORMANCE GUARANTEE No:

We have been informed that *[name of supplier]* (hereinafter called "the Supplier") has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called "the Contract") for the supply of *[description of goods and related services]* under the Contract.

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

At the request of the Supplier, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Supplier is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

This guarantee is valid until full recovery of the entire advance, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee in case of default.

Signature

Signature

Bank Guarantee for Advance Payment (Form G – 10)

[this is the format for the Advance Payment Security to be issued by a commercial bank of Nigeria in accordance with GCC Clause 26.1]

Contract No :

Date :

To :

[Name and address of Procuring Entity]

ADVANCE PAYMENT GUARANTEE No:

We have been informed that *[name of supplier]* (hereinafter called "the Supplier") has undertaken, pursuant to Contract No *[reference number of Contract]* dated *[date of Contract]* (hereinafter called "the Contract") for the supply of *[description of goods and related services]* under the Contract.

Furthermore, we understand that, according to your Special Conditions of Contract Clause 26.1, Advance Payment(s) on Contracts must be supported by a bank guarantee.

At the request of the Supplier, we *[name of bank]* hereby irrevocably undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Naira *[insert amount in figures and in words]* upon receipt by us of your first written demand accompanied by a written statement that the Supplier is in breach of its obligation(s) under the Contract conditions, without you needing to prove or show grounds or reasons for your demand of the sum specified therein.

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

This guarantee is valid until *[date of validity of guarantee]*, consequently, we must receive at the above-mentioned office any demand for payment under this guarantee on or before that date.

Signature

Signature

Section 6. Schedule of Requirements

Invitation for Tender No :

Date

Tender Package No :

A. List of Goods and Delivery Schedule

When completing Form G-2 the Tenderer shall quote prices and contract delivery dates for each item against each lot and show each Lot separately, as specified in the List of Goods and Delivery Schedule.)

<i>Item No.</i>	<i>Description of Item</i>	<i>Unit of Supply</i>	<i>Quantity of Units required</i>	<i>Point of Delivery</i>	<i>Date Required (in weeks)</i>
-----------------	----------------------------	-----------------------	-----------------------------------	--------------------------	---------------------------------

1	2	3	4	5	6
---	---	---	---	---	---

Procuring Entity's Option for delivery terms is :

[note 1]

Lot No 1: *[enter description]*

[add as many rows and details as there are individual items in the Lot]

Lot No 2: [enter description]

*[add as many
rows and
details as
there are
individual
items
in the Lot]*

Lot No 3: [enter description]

*[add as many
rows and
details as
there are
individual
items in
the Lot]*

Lot No 4: [enter description]

*[add as many
rows and details
as there are
individual
items in the Lot]*

Note 1 : The Procuring Entity must specify the option from which the delivery required will start :

(a) from date of notification of contract award, or

(b) from date of contract signature, or

(c) from date of opening of letter of credit ; or

(d) from date of confirmation of letter of credit.

e.g. In Column 6 if the delivery required is 10 weeks from the date of Notification of contract award, then type in (a) ; if the delivery required is 10 weeks from opening of letter of credit type in (c), etc. Each item of each lot should have the same delivery date and conditions, except in exceptional circumstances]

B. List of Related Services and Completion Schedule

When completing Form G-2 the Tenderer shall quote prices and contract delivery dates for each item against each lot.

<i>Item</i>	<i>No.</i>	<i>Description of Item</i>	<i>Unit of Supply required</i>	<i>Quantity of Units</i>	<i>Point of Delivery (in weeks)</i>	<i>Date Required</i>
1	2	3	4	5	6	

Procuring Entity's Option for delivery terms is :

[note 1]

Lot No 1: [enter description]

*[add as many
rows and
details
as there are
individual
items
in the Lot]*

Lot No 2: [enter description]

*[add as many
rows and
details as*

*there are
individual
items
in the Lot]*

Lot No 3: [enter description]

*[add as many
rows and
details as
there are
individual
items in
the Lot]*

Lot No 4: [enter description]

*[add as many
rows and details
as there are
individual
items in the Lot]*

Note 1 : The Procuring Entity must specify the option from which the completion of services will start :

- (a) from date of notification of contract award, or
- (b) from date of contract signature, or
- (c) from date of opening of letter of credit ; or
- (d) from date of confirmation of letter of credit

e.g. In Column 6 if the completion required is 10 weeks from date of Notification of contract award, then type in (a) ; if the completion required is 10 weeks from opening of letter of credit type in (c), etc. Each item of each lot should have the same completion date and conditions, except in exceptional circumstances.

Note 2 : The Procuring Entity must decide whether there is a separate unit of supply and quantity of units, otherwise may specify ONE (1) in both columns or LUMP SUM in Column 4

Section 7. Technical Specifications

The Goods and Related Services shall comply with following Technical Specifications :

Item	Name of Item or Related Service	Technical Specification and	No.
Standards			
1	2	3	

Lot No 1: [enter description]

*[add as many rows and details as there
are individual items in the Lot]
Specification and any relevant*

followed for the manufacture and

*[The Procuring Entity must explain
in clear terms the exact Technical*

*National or International
Standards which have to be
supply of the goods or related
services*

Lot No 2: [enter description]

*[add as many rows and details as
there are individual items in the Lot]*

Lot No 3: [enter description]

*[add as many rows and details as there
are individual items in the Lot]*

Lot No 4: [enter description]

*[add as many rows and details as there
are individual items in the Lot]*

Section 8. Drawings

Notes on Drawings

[Insert here a list of Drawings, including site plans, which should be attached to this section or annexed in a separate folder. The Drawings shall be clearly dated, numbered and show any revision number(s), if appropriate.]