This is the Preliminary working Draft. PE can use this draft for their Tender preparation. During preparation of Tender, if any problem/ confusion arise, PE’s are requested to contact with CPTU for further clarifications.



**GOVERNMENT OF THE PEOPLE’S REPUBLIC OF BANGLADESH**

Standard e-Tender Document (STD) (National)

For Procurement of Goods

[Direct Procurement Method]

**Central Procurement Technical Unit**

**Implementation Monitoring and Evaluation Division**

**Ministry of Planning**

**December 2021 e-PG9**

Table of Contents

[Guidance Notes on the Use of The Standard e-TD [e-PG9] 3](#_Toc91689836)

[Invitation Letter and Instruction to Tenderer for Direct Contracting 5](#_Toc91689837)

[ANNEX 1: PE’s Requirements 8](#_Toc91689838)

[ANNEX 2: Offer Forms 11](#_Toc91689839)

[Contract Agreement and Condition of Contract 14](#_Toc91689840)

Guidance Notes on the Use of

The Standard e-TD [e-PG9]

These guidance notes have been prepared by the CPTU to assist a Procuring Entity in the preparation of e-Tender Document, using the Standard e-Tender Document (STD), for the procurement of Goods and related services. The STD is prepared in consistent with the Public Procurement Act 2006 and the Public Procurement Rule 2008 (PPR2008), issued to supplement the ACT and Bangladesh e-Government Procurement (e-GP) Guidelines.

The use of STD [e-PG9] applies when a Purchaser (the Procuring Entity) wishes to select only one Tenderer (a Supplier) for the supply of Goods and related services under **Direct Procurement Method (DPM)** through e-GP system.

The Procuring Entity addresses its specific needs through the information provided in the **Invitation Letter and Instruction to Tenderer for Direct Contracting** and the **Contract Agreement and Conditions of Contract** as well as the detailed requirements of the procurement in the **Price Schedule**, the **Technical Specifications** and/or the **Drawings**.

Guidance notes in brackets and italics are provided for both the Procuring Entity and the

Tenderer and the Procuring Entity should carefully decide what notes need to remain and what other guidance notes might be required to assist the Tenderer in preparing its Tender Submission so as to minimize an inept Tendering process.

STD [e-PG-9], provides all the information that a Tenderer needs in order to prepare and submit a Tender. This should provide a sound basis on which a Procuring Entity can fairly, transparently and accurately carry out a Tender e-evaluation process on the e-Tenders submitted by the Tenderers.

The following paragraphs briefly describe the Sections of the STD [e-PG9] and how a Procuring Entity should use these when preparing a particular e-TD.

|  |  |
| --- | --- |
| **Section 1.** | **Invitation Letter and Instruction to Tenderer for Direct Contracting**  Procuring Entity shall upload the document for this section. It provides information on Submission of Tender, Contract Negotiation, Award of Contract, etc. It specifies the instruction and procedure that govern the tendering process. |
| **Section 2.** | **Contract Agreement and Conditions of Contract**  Procuring Entity shall upload this Section in the e-GP System. It provides the Contract Agreement and Conditions of Contract that will apply to the Contract for which the e-TD is issued. The Contract Agreement and Conditions of Contract clearly identify the provisions that specify for a particular contract management process. |
| **Section 3.** | **Tender and Contract Forms**  This Section provides the standard forms: **Supplier’s Offer Form**, **Technical Specifications and Compliance of Goods and Related Services, Price Schedules**; **Sample Letter of Invitation for Negotiations** to be used by Procuring Entities; **Bank Guarantee for Performance Security** and **Bank Guarantee for Advance Payment Security** (if applicable) to be submitted by the successful Tenderer. |
| **Section 4.** | **Drawings**  This Section contains any Drawings that supplement the Technical Specifications for the Goods and Related Services to be procured. |

Invitation Letter and Instruction to Tenderer for Direct Contracting

**Direct Contracting Ref No.:**

**Direct Contracting Date:**

**To: \_\_\_\_\_\_\_\_\_ [ *insert Supplier’s name*]**

Dear [*insert name of Supplier’s representative*]:

**Invitation for Direct Contracting**

1. The *[insert name of PE] [has received/has applied for]* toward the cost of the [*insert name of project or grant*] and intends to apply part of the proceeds toward payments under the contract for [*insert title of contract*].
2. The *[insert name of implementing agency]* now invites your offer for the Goods [***add if applicable****:* “and the Related Services,”] described in Annex 1: PE’s Requirements, attached to this invitation.

**Eligible Goods (“and Related Services*” if applicable*)**

1. All the Goods and Related Services (if applicable) to be supplied under the Contract and financed by PE may have their origin in any country subject to Para. 4.

Eligible Supplier

1. 4.1 The Supplier and its Subcontractors shall have the nationality of an eligible country [*State the name of countries*]. A Supplier or Subcontractor shall be deemed to have the nationality of a country if it is a citizen or constituted, incorporated, or registered, and operates in conformity with the provisions of the laws of Bangladesh.

4.2 All Goods and Related Services to be supplied under the Contract shall have their origin in Eligible Countries.

4.3 For the purpose of the GCC Clause 4.2, origin means the country where the goods have been grown, mined, cultivated, produced, manufactured, or processed; or through manufacture, processing, or assembly, another commercially recognized article results that differs substantially in its basic characteristics from its components.

1. Suppliers that are state-owned enterprises or institutions in the PE’s country may be eligible to compete and be awarded a Contract(s) only if they can establish, in a manner acceptable to the PE, that they:
   * 1. are legally and financially autonomous;
     2. operate under commercial law; and
     3. are not supervision dependent agency of the PE.
2. A Supplier shall not have a conflict of interest. Any Supplier found to have a conflict of interest shall be disqualified. A Supplier may be considered to have a conflict of interest for the purpose of this direct contracting process, if the Supplier:
   * 1. or any of its affiliates participated as a consultant in the preparation of the design or technical specifications of the Goods, or Related Services, that are the subject of this direct contracting process; or
     2. or any of its affiliates has been hired (or is proposed to be hired) by the PE for implementing the Contract; or
     3. would be providing Goods, works, or non-consulting services resulting from, or directly related to consulting services for the preparation or implementation of the project specified in this Invitation for Direct Contracting, that it provided or were provided by any affiliate that directly or indirectly controls, is controlled by, or is under common control with that firm; or
     4. has a close business or family relationship with a professional staff of the PE who: (i) are directly or indirectly involved in the preparation of the Invitation for Direct Contracting or specifications and/or the evaluation of the offer, of the subject Contract; or (ii) would be involved in the implementation or supervision of such Contract unless the conflict stemming from such relationship has been resolved in a manner acceptable to the PE throughout the direct contracting process and execution of the Contract.

**Manufacturer’s Authorization [***After careful consideration if Manufacturer’s authorization is not required, insert Not Applicable***]**

1. If you do not manufacture or produce the Goods to be supplied, please submit a Manufacturer’s Authorization using the form included to this invitation for direct contracting to demonstrate that you are authorized by the manufacturer or producer of the Goods to supply these Goods in the PE’s Country.

**Performance Security**

1. A Performance Security shall be required. “The successful Supplier shall submit a Performance Security in accordance with the Contract Conditions.”

**Validity of Offer**

1. Please indicate the validity of the offer.

**Quoted Price**

1. Prices shall be quoted in the **'Price and Delivery Schedule for Goods**' and '**Price and Delivery Schedule for Related Services**' forms under Section **‘Tender and Contract Forms’** provided in the e-GP System.

**Clarifications**

1. Any clarification request regarding this invitation for direct contracting may be sent in writing to ***[insert: name and email address of PE’s representative]*** before **[*insert date and time*]**.

**Submission of Offer**

1. Please submit your offer within [number of days; this may even be the same day if, given the emergency, negotiations to conclude a contract have commenced] using the form attached at Annex 2.
2. The address for submission of Offer is:

Attention: *[insert full name of person, if applicable]*

**E-mail address: or link to e-procurement system**

**Contract negotiations and award of contract**

1. The contract will be concluded subject to the satisfactory conclusion of negotiations. ***[in light of the circumstances, any negotiation is expected to be virtual]***
2. The PE shall publish a contract award notice on its website with free access, if available, or in CPTU Website, within 7 working days after award of contract. The information shall include the name of the successful Supplier, the Contract Price, the Contract duration and summary of its scope.

On behalf of the PE:

**Signature:**

**Name:**

**Title/position:**

ANNEX 1: PE’s Requirements

Technical Specifications and Compliance of Goods and related services:

|  |
| --- |
| **Notes on Technical Specifications:**  **Note 1:**  **[The PE shall follow the Rule 29 of Public Procurement Rule, 2008 while preparing the Technical Specifications of the Goods ] [A set of precise and clear specifications is a prerequisite for Tenderers to respond realistically and competitively to the requirements of the PE. In the context of Competitive Tender, the specifications must be prepared to permit the widest possible competition and, at the same time, present a clear statement of the required standards of workmanship, materials, and performance of the goods and services to be procured. Only if this is done will the objectives of transparency, equity, efficiency, fairness and economy in procurement be realized, responsiveness of Tenders be ensured, and the subsequent task of Tender evaluation and post-qualification facilitated. The specifications should require that all items, materials and accessories to be included or incorporated in the goods be new, unused, and of the most recent or current models, and that they include or incorporate all recent improvements in design and materials]**  **Note 2:**  **[The PE must explain in clear terms the exact Technical Specification and any relevant National or International Standards which have to be followed for the manufacture and supply of the goods or related services. Technical Specifications shall specify what inspection and/or tests the PE requires and where they are to be conducted]**  **Note 3:**  **Keep the same Item no. in price schedule and technical specification form** |

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Item No.** | **Name of Goods** | **Detailed Technical Specification and Standards required** | **Inspection and/or tests required and test place** | **Country of Origin** | **Make, and Model or Brand (when applicable)** | **Full Detailed Technical Specifications and Standards offered** |
| Specify Item No | Specify Name of Goods | Specify Detailed Technical Specification and Standards required | Specify Inspection and/or tests required and test place |  |  |  |

Price and Delivery Schedule for Goods

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Item No (1)** | **Description of Item (2)** | **Measurement Unit (3)** | **Quantity (4)** | **Point of Delivery (5)** | **Delivery Period (in days) (Note:1) (6)** | **Country of Origin (7)** | **Unit Price in Figure (BDT) (8)** | **Unit Price in Words (BDT) (9)** | **Total Price in Figure (BDT) (10)** | **Total Price in Words (BDT) (11)** |
|  |  |  |  |  |  |  |  |  |  |  |

|  |
| --- |
| **The Goods covered by this Tendering process shall require to be delivered in accordance with this Delivery and Completion Schedule. No credit will be given for earlier completion.** |

Price and Delivery Schedule for Related Services

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Item No (1)** | **Description of Item (2)** | **Measurement Unit (3)** | **Quantity (4)** | **Point of Completion (5)** | **Completion Period (in days)** | **Country of Origin (7)** | **Unit Price in Figure (BDT) (8)** | **Unit Price in Words (BDT) (9)** | **Total Price in Figure (BDT) (10)** | **Total Price in Words (BDT) (11)** |
|  |  |  |  |  |  |  |  |  |  |  |

|  |
| --- |
| **The Goods covered by this Tendering process shall require to be delivered in accordance with this Delivery and Completion Schedule. No credit will be given for earlier completion.** |

Drawings

***[OPTIONAL; use if applicable]***

This Invitation for Direct Contracting includes *[insert “the following” or “no”]* drawings.

*[If drawings shall be included, insert the following List of Drawings]*

|  |  |  |
| --- | --- | --- |
| **List of Drawings** | | |
| **Drawing Number** | **Drawing Name** | **Purpose** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

ANNEX 2: Offer Forms

Supplier's Offer Form

|  |  |
| --- | --- |
| **Description** | **Supplier's Response** |
| 1. Conformity and no reservations   In response to the above invitation for direct contracting, we offer to supply the Goods, [add if applicable: and deliver the Related Services] as per this invitation subject to any negotiations that may be carried out to finalize the contract.   1. Eligibility   We meet the eligibility requirements and have no conflict of interest, in accordance with the Invitation for Direct Contracting.   1. Suspension and Debarment   3(a) For Source of Fund: GoB We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to a temporary suspension or a debarment imposed by any Procuring Entity or a debarment imposed by any Development Partners. Further, we are not ineligible under the PE’s country laws or official regulations or pursuant to a decision of the United Nations Security Council.  3 (b) For Source of Fund: Development Partners We, along with any of our subcontractors, suppliers, consultants, manufacturers, or service providers for any part of the contract, are not subject to, and not controlled by any entity or individual that is subject to a temporary suspension or a debarment imposed by the World Bank Group or a debarment imposed by the World Bank Group in accordance with the Agreement for Mutual Enforcement of Debarment Decisions between the World Bank and other development banks. Further, we are not ineligible under the PE’s country laws or official regulations or pursuant to a decision of the United Nations Security Council.  4. Offered Price  The total price of our Tender is mentioned in the Grand Summary of Price Schedule as auto-generated by the e-GP system.  5. Validity of the Offer Our Tender shall be valid for the period stated in the Invitation Letter and Instruction to Tenderer for Direct Contracting and it shall remain binding upon us and may be accepted at any time before the expiration of that period.  6. Performance Security [delete if performance security is not required] If we are awarded the Contract, we commit to obtain a Performance Security in accordance with the Invitation Letter and Instruction to Tenderer for Direct Contracting.  7. Commissions, gratuities, fees Our commissions, gratuities, or fees are mentioned under Unit Rate Column in the Price Schedule form of the e-GP system.  8. Not Bound to Accept We understand that you reserve the right to: a. accept or reject the offer, and b. annul the direct contracting process at any time prior to the award of the Contract.  9. For Source of Fund: GoB  Professional Misconduct  We hereby certify that we have taken steps to ensure that no person acting for us, or on our behalf, engages in any type of professional misconduct in pursuant to Rule-127 of PPR 2008.    10. For Source of Fund: Development Partners  Fraud and Corruption  We hereby certify that we have taken steps to ensure that no person acting for us, or on our behalf, engages in any type of Fraud and Corruption. | I Agree |
| **Attachment 1:**  **Scanned copy of written confirmation authorizing the above signatory to submit the Tenderer, in accordance with Invitation Letter and Instruction to Tenderer.** | |

**Manufacturer’s Authorization**

*[The Supplier shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This* *letter of authorization should be on the letterhead of the Manufacturer and should be signed by a person with the proper authority to sign documents that are binding on the Manufacturer.]*

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

Request for Invitation for Direct Contracting No.: *[insert reference number if applicable]*

To: *[insert complete name of PE]*

WHEREAS

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

We hereby extend our full guarantee and warranty in accordance with Clause 21 of the Conditions of Contract, with respect to the Goods offered by the above firm.

We confirm that we do not engage or employ (i) forced labor or persons subject to trafficking in accordance with Clause 27 or (ii) child labor in accordance with Clause 28, of the Conditions of Contract. We also confirm that we comply with applicable health and safety obligations in accordance with Clause 29 of the Conditions of Contract.

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

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

Title: *[insert title]*

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

Contract Agreement and Condition of Contract

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

BETWEEN

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

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

WHEREAS the PE invited an offer for certain Goods and related services, *[insert brief description of Goods and Services]*, carried out contract negotiations as applicable, and has accepted the offer by the Supplier for the supply of those Goods and *[Related Services, if any]*

The PE and the Supplier agree as follows:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Contract documents referred to.

2. The following documents shall be deemed to form and be read and construed as part of this Agreement. This Agreement shall prevail over all other Contract documents.

1. Minutes of Negotiations
2. the Supplier’s offer
3. Conditions of Contract
4. the PE’s Requirements (including the Schedule of Requirements and Technical Specifications)
5. the completed Schedules (including Price Schedules)
6. any other document listed as forming part of the Contract

3. In consideration of the payments to be made by the PE to the Supplier as specified in this Agreement, the Supplier hereby covenants with the PE to provide the Goods and Related Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The PE 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 Bangladesh on the day, month and year indicated above.

**For and on behalf of the PE:**

Signed: *[insert signature]*

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

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

**For and on behalf of the Supplier:**

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

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

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

Conditions of Contract

***[Note: All italicized text is for use in completing the contract and shall be deleted from the final Conditions of Contract]***

|  |  |
| --- | --- |
| 1. Definitions | 1.1 The following words and expressions shall have the meanings hereby assigned to them: “CC” means the Conditions of Contract.“Contract” means the Contract Agreement entered into between the PE and the Supplier, together with the Contract Documents referred to therein, including all attachments, appendices, and all documents incorporated by reference therein.“Contract Documents” means the documents listed in the Contract Agreement, including any amendments thereto.“Contract Price” means the price payable to the Supplier as specified in **CC 7.1**, subject to such additions and adjustments thereto or deductions therefrom, as may be made pursuant to the Contract.“Day” means calendar day.“Completion” means the fulfillment of the Related Services, as applicable, by the Supplier in accordance with the terms and conditions set forth in the Contract.Goods means raw materials, products and equipment and objects in solid, liquid or gaseous form, electricity, and related Services if the value of such Services does not exceed that of the Goods themselves ;“Party” means the PE or the Supplier, as the context requires, and “Parties” means both of them.Procuring Entity means an Entity having administrative and financial powers to undertake Procurement of Goods, Works or Services using public funds, as specified in CC 2.  * + 1. Related Services means Services linked to the supply of Goods contracts;  Subcontractormeans any natural person, private or government entity, or a combination of the above, to whom any part of the Goods to be supplied or execution of any part of the Related Services is subcontracted by the Supplier;  * + 1. Supplier means a Person under contract with a Procuring Entity for the supply of Goods and related services under the Act;  “The Project Site,” where applicable, means the place named in CC 2. |
| 1. PE, PE’s Country, Project Site/Final Destination | * 1. The PE is: [Insert complete legal name of the PE]   2. The PE’s Country is: [insert name of the PE’s Country]   3. The Project Site(s)/Final Destination(s) is/are: [Insert name(s) and detailed information on the location(s) of the site(s), where applicable] |
| 1. Notices and Addresses for notices | * 1. Any notice given by one Party to the other pursuant to the Contract shall be in writing to the address hereafter using the quickest available method such as electronic mail with proof of receipt.   A notice shall be effective when delivered or on the notice’s effective date, whichever is later.  **Address for notices to the PE:**  *[insert the name of officer authorized to receive notices]*  *[title/position]*  *[department/work unit]*  *[address]*  *[****Electronic mail address****]*  **Address for notices to the Supplier:**  *[insert the name of officer authorized to receive notices]*  *[title/position]*  *[department/work unit]*  *[address]*  *[****Electronic mail address****]* |
| 1. Governing Law | * 1. The Contract shall be governed by and interpreted in accordance with the laws of Bangladesh.   2. Throughout the execution of the Contract, the Supplier shall comply with the import of goods and services prohibitions in Bangladesh when:  1. as a matter of law or official regulations, the PE’s country prohibits commercial relations with that country; or 2. by an act of compliance with a decision of the United Nations Security Council taken under Chapter VII of the Charter of the United Nations, the PE’s Country prohibits any import of goods from that country or any payments to any country, person, or entity in that country. |
| 1. Settlement of Disputes | 1. Contract with foreign Supplier:   ***[unless the PE chooses the commercial arbitration rules of another international arbitral institution, the following sample clause should be inserted:]***  All disputes arising out of or in connection with the present contract shall be finally settled under The Arbitration Act, 2001.   1. Contracts with Supplier national of the PE’s Country:   In the case of a dispute between the PE and a Supplier who is a national of the PE’s Country, the dispute shall be referred to adjudication or arbitration in accordance with the laws of the PE’s Country. |
| 1. Shipping and other documents to be provided | * 1. The Delivery of the Goods and Completion of the Related Services as applicable shall be in accordance with the Delivery and Completion Schedule specified in the Schedule of Requirements.   Details Documents to be furnished by the Supplier are: [insert the required documents, such as insurance certificate, Manufacturer’s or Supplier’s warranty certificate, inspection certificate issued by nominated inspection agency, Supplier’s factory shipping details *or any other documents that may be required*] |
| 1. Contract Price | * 1. The Contract Price is specified in Price Schedule 4.   2. Subject to CC 30 and 31, the prices charged by the Supplier for the Goods supplied and the Related Services as applicable performed under the Contract shall not vary from the prices agreed in the Contract. |
| 1. Terms of payment | * 1. The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:   Payment for Goods and Services supplied shall be made in Bangladesh Taka, as follows:   * + - 1. **Advance Payment:** *Insert**In word* [*Insert number*] percent of the Contract Price shall be paid within *Insert**In word* [*Insert number*] days of signing of the Contract upon submission of a claim for the amount.       2. **On Delivery and acceptance:** *Insert**In word* [*Insert number*] percent of the Contract Price shall be paid on receipt of the Goods and within *Insert**In word* [*Insert number*] days after submission of the documents and after the date of the acceptance certificate for the respective delivery issued by the PE. |
| 1. Taxes and Duties | * 1. The Supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the PE. |
| 1. Performance Security | * 1. [A Performance Security **shall be required for the procurement.** ]   [“The Supplier shall, within *[insert number of days]* days of the notification of contract award, provide a performance security for the performance of the Contract  The proceeds of the Performance Security shall be payable to the PE as compensation for any loss resulting from the Supplier’s failure to complete its obligations under the Contract.  The amount of the Performance Security shall be: [insert % of Contract Price;], The Performance Security shall be in the form of a Bank Draft, Pay Order or an irrevocable unconditional Bank Guarantee in the format**,** without any alteration, issuedby any scheduled Bank of Bangladesh acceptable to the Procuring Entity.The Performance Security shall be discharged by the PE and returned to the Supplier not later than twenty-eight (28) days following the date of Completion of the Supplier’s performance obligations under the Contract, including any warranty obligations, unless specified otherwise.”] |
| 1. Validity of Performance Security | * 1. The Performance Security shall be required to be valid until twenty-eight (28) days beyond the date of completion of the Supplier’s performance obligations under the Contract, including any warranty obligations. |
| 1. Authenticity of Performance Security | * 1. The Procuring Entity shall verify the authenticity of the Performance Security submitted by the successful Tenderer by sending a written request to the branch of the Bank issuing the Pay Order, Bank Draft or irrevocable unconditional Bank Guarantee in specified format. |
| 1. Subcontractors | * 1. The Supplier shall notify the PE in writing of all subcontracts awarded under the Contract if not already specified in Supplier’s offer. Such notification, in the original offer or later shall not relieve the Supplier from any of its obligations, duties, responsibilities, or liability under the Contract. |
| 1. Specifications and Standards | * 1. The Goods and Related Services if applicable supplied under this Contract shall conform to the technical specifications and standards mentioned in the 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’ country of origin. |
| 1. Packing, marking and documentation | * 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.   2. The packing, marking and documentation within and outside the packages shall be: [insert the type of packing required, the markings in the packing and all documentation required; **or refer to the Technical Specifications**] |
| 1. Insurance cover | * 1. The insurance coverage shall be as specified below:   *[insert specific insurance provisions agreed upon, including coverage, currency and amount]* |
| 1. Transportation | * 1. Responsibility for transportations shall be as follows: [insert “The Supplier is required under the Contract to transport the Goods to a specified place of final destination within the PE’s country, defined as the Project Site. Transport to such place of destination in the PE’s country, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price”; or any other agreed upon trade terms (specify the respective responsibilities of the PE and the Supplier)] |
| 1. Inspections and Tests | * 1. The Supplier shall at its own expense and at no cost to the PE carry out the tests and/or inspections of the Goods and Related Services **as are specified in the Technical Specifications**.   2. The inspections and tests may be conducted on the premises of the Supplier or its Subcontractor, at point of delivery, and/or at the Goods’ final destination, or in any other location, **as specified in the Technical Specifications.** Subject to CC 18.3, 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 PE.   3. The PE or its designated representative shall be entitled to attend the tests and/or inspections referred to in CC 18.2, provided that the PE bear all of its own costs and expenses incurred in connection with such attendance including, but not limited to, all traveling and board and lodging expenses.   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 PE. The Supplier shall obtain from any relevant third party or manufacturer any necessary permission or consent to enable the PE or its designated representative to attend the test and/or inspection.   5. In accordance with CC 31, the PE 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.   6. The Supplier shall provide the PE with a report of the results of any such test and/or inspection.   7. The PE 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 PE, and shall repeat the test and/or inspection, at no cost to the PE, upon giving a notice pursuant to CC 18.5.   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 PE or its representative, nor the issue of any report pursuant to CC 18.7, shall release the Supplier from any warranties or other obligations under the Contract |
| 1. Delivery Date and Completion Date | * 1. The Delivery Date of the Goods shall be: \_\_\_\_\_\_\_ [Insert the Delivery Date]. If phased delivery is allowed specify the acceptable delivery schedule]   2. **[if applicable]** The Completion Date of Related Services shall be: \_\_\_\_ [Insert the Completion Date if there are related services; otherwise delete this entry] |
| 1. Liquidated damages and bonuses | * 1. The liquidated damage shall be [insert %] of the price of the delayed Goods or unperformed Services] for each week or part thereof of delay until actual delivery or performance.   The maximum amount of liquidated damages shall be *[insert %]* of the Contract Price. Once the maximum is reached, the PE may terminate the Contract pursuant to CC 26. |
| 1. Warranty | * 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.   2. 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 the country of final destination.   3. The warranty shall remain valid for [insert number days or months] after the Goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination. PE may consider shelf-life of the product as Warranty Period.   4. The period for repair or replacement after being notified of the defect by the PE shall be [insert number] days.   5. If having been notified, the Supplier fails to remedy the defect within the period specified in CC 21.4, the PE 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 PE may have against the Supplier under the Contract.   6. For purposes of the warranty, the place(s) of final destination(s) shall be: [specify where appropriate] |
| 1. Copyright | * 1. The copyright in all drawings, documents, and other materials containing data and information furnished to the PE by the Supplier herein shall remain vested in the Supplier, or, if they are furnished to the PE 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. |
| 1. Corrupt, Fraudulent, Collusive, Coercive ( and Obstructive in case of Development Partner) Practices | * 1. The Government and the Development Partner requires that the Procuring Entity as well as the Supplier (including their manufacturers, sub-contractors, agents, personnel, consultants and service providers), shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of contracts under public funds.   2. For the purpose of this contract, terms set forth below as follows–  1. **corrupt practice** means offering, giving or promising to give, receiving, or soliciting, either directly or indirectly, to any officer or employee of the Procuring Entity or other public or private authority or individual, a gratuity in any form; employment or any other thing or service of value as an inducement with respect to an act or decision or method followed by the Procuring Entity in connection with a Procurement proceeding or contract execution; 2. **fraudulent practice** means the misrepresentation or omission of facts in order to influence a decision to be taken in a Procurement proceeding or Contract execution; 3. **collusive practice** means a scheme or arrangement between two (2) or more Persons, with or without the knowledge of the Procuring Entity, that is designed to arbitrarily reduce the number of Tenders submitted or fix Tender prices at artificial, noncompetitive levels, thereby denying a Procuring Entity the benefits of competitive price arising from genuine and open competition; or 4. **coercive practice** means harming or threatening to harm, directly or indirectly, Persons or their property to influence a decision to be taken in a Procurement proceeding or the execution of a Contract, and this will include creating obstructions in the normal submission process used for Tenders   “Obstructive practice” (applicable in case of Development Partner) means deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede an investigation into allegations of a corrupt, fraudulent, coercive or collusive practice; and /or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation.   * 1. Should any corrupt, fraudulent, collusive, coercive practice ( or obstructive practice in case of Development Partner ) of any kind, in competing for or in executing the Contract, is determined by the Procuring Entity, then the Procuring Entity may, upon giving 14 days’ notice to the Supplier, terminate the Supplier’s employment under the Contract and the provisions of Clause 26 shall apply as if such expulsion had been made under sub-clause 26.1 (Termination for Default).   2. If corrupt, fraudulent, collusive or coercive (or obstructive in case of Development Partners) practices of any kind determined by the Procuring Entity or the Development Partner against the Supplier alleged to have carried out such practices, the Procuring Entity and/or the Development Partner shall;   3. exclude the Supplier from further participation in the particular Procurement proceeding; or   4. declare, at its discretion, the Supplier to be ineligible to participate in further Procurement proceedings, either indefinitely or for a specific period of time.   5. The Supplier shall be aware of the provisions on corruption, fraudulence, collusion, coercion and of the Public Procurement Act, 2006, the Public Procurement Rules, 2008 and in case of Development Partner financed contract, the Procurement Regulations/Guidelines of the Development Partner.   6. The Supplier (including its manufacturers, sub-contractors, agents, personnel, consultants and service providers) shall permit the Government and/or the Development Partner to inspect the Supplier’s accounts and records and other documents relating to the submission of e-Tender and contract performance, and to have them audited by auditors appointed by the Government and/or the Development Partner, if so required.   The Government requires that Suppliers, shall observe the highest standard of ethics during the implementation of procurement proceedings and the execution of contracts under public funds.   * 1. *3.1* |
| 1. Limitation of Liability | * 1. Except in cases of criminal negligence or willful misconduct,   (a) the Supplier shall not be liable to the PE, 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 PE and  (b) the aggregate liability of the Supplier to the PE, 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 PE with respect to patent infringement. |
| 1. Force Majeure | * 1. The Supplier shall not be liable for forfeiture of its Performance Security (if required), 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.   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 PE in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.   3. If a Force Majeure situation arises, the Supplier shall promptly notify the PE in writing of such condition and the cause thereof. Unless otherwise directed by the PE 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.   4. If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the performance of the Contract, the Parties will attempt to develop a mutually satisfactory solution, failing which either Party may terminate the Contract by giving a notice to the other Party. |
| 1. Termination | * 1. Termination for Default  The PE, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate the Contract in whole or in part: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 PE;if the Supplier fails to perform any other obligation under the Contract; orif the Supplier, in the judgment of the PE has engaged in professional misconduct, in competing for or in executing the Contract. In the event the PE terminates the Contract in whole or in part, the PE may procure, upon such terms and in such manner as it deems appropriate, Goods or Related Services if applicable similar to those undelivered or not performed, and the Supplier shall be liable to the PE for any additional costs for such similar Goods or Related Services if applicable. However, the Supplier shall continue performance of the Contract to the extent not terminated.   * 1. Termination for Convenience  The PE, 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 PE’s convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.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 PE at the Contract terms and prices. For the remaining Goods, the PE may elect:to have any portion completed and delivered at the Contract terms and prices; and/orto cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Related Services if applicable and for materials and parts previously procured by the Supplier. |
| 1. Forced Labor | * 1. The Supplier, including its Subcontractors, shall not employ or engage forced labor or persons subject to trafficking, as described in CC 27.2 and CC 27.3.   2. Forced labor consists of any work or service, not voluntarily performed, that is exacted from an individual under threat of force or penalty, and includes any kind of involuntary or compulsory labor, such as indentured labor, bonded labor or similar labor-contracting arrangements.   3. Trafficking in persons is defined as the recruitment, transportation, transfer, harbouring or receipt of persons by means of the threat or use of force or other forms of coercion, abduction, fraud, deception, abuse of power, or of a position of vulnerability, or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation.having control over another person, for the purposes of exploitation. |
| 1. Child Labor | * 1. The Supplier, including its Subcontractors, shall not employ or engage a child under the age of 18 unless the national law specifies a higher age (the minimum age).   2. The Supplier, including its Subcontractors, shall not employ or engage a child between the minimum age and the age of 18 in a manner that is likely to be hazardous, or to interfere with, the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral, or social development.   Work considered hazardous for children is work that, by its nature or the circumstances in which it is carried out, is likely to jeopardize the health, safety, or morals of children. Such work activities prohibited for children include work:   1. with exposure to physical, psychological or sexual abuse; 2. underground, underwater, working at heights or in confined spaces; 3. with dangerous machinery, equipment or tools, or involving handling or transport of heavy loads; 4. in unhealthy environments exposing children to hazardous substances, agents, or processes, or to temperatures, noise or vibration damaging to health; or 5. under difficult conditions such as work for long hours, during the night or in confinement on the premises of the employer. |
| 1. Health and safety obligations | * 1. The Supplier shall comply, and shall require its Subcontractors if any to comply, with all applicable health and safety regulations, laws, guidelines, and any other requirement stated in the Technical Specifications. |
| 1. Patent Indemnity | * 1. The Supplier shall, subject to the PE’s compliance with CC 30.2, indemnify and hold harmless the PE 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 PE 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 by reason of:      1. the installation of the Goods by the Supplier or the use of the Goods in the country where the Site is located; and      2. 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.   * 1. If any proceedings are brought or any claim is made against the PE arising out of the matters referred to in CC 30.1, the PE shall promptly give the Supplier a notice thereof, and the Supplier may at its own expense and in the PE’s name conduct such proceedings or claim and any negotiations for the settlement of any such proceedings or claim.   2. If the Supplier fails to notify the PE within twenty-eight (28) days after receipt of such notice that it intends to conduct any such proceedings or claim, then the PE shall be free to conduct the same on its own behalf.   3. The PE 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.   4. The PE 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 PE. |
| 1. Change Orders and Contract Amendments | * 1. The PE may at any time order the Supplier through notice in accordance CC 3.1, to make changes within the general scope of the Contract in any one or more of the following:      1. drawings, designs, or specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the PE;      2. the method of shipment or packing;      3. changes in quantities of Goods to be supplied within the range specified herewith. [*insert as appropriate: “The maximum percentage by which quantities may be increased is: [insert percentage]; The maximum percentage by which quantities may be decreased is: [insert percentage”];*      4. the place of delivery;      5. any test and/or inspection not required by the Contract but deemed necessary, pursuant to CC 18.5; and      6. the Related Services to be provided by the Supplier.   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 asserted within twenty-eight (28) days from the date of the Supplier’s receipt of the PE’s change order.   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.   4. Subject to the above, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties. |
| 1. Change in Laws and Regulations | * 1. Unless otherwise specified in the Contract, if after the date the Contract is signed by the PE and the Supplier, any law, regulation, ordinance, order or bylaw having the force of law is enacted, promulgated, abrogated, or changed in the place of the PE’s Country where the Site is located (which shall be deemed to include any change in interpretation or application by the competent authorities) that subsequently affects the Delivery Date and/or the Contract Price, then such Delivery Date and/or 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. |
| **Additional Clauses** | [*insert any additional clauses as necessary, otherwise delete this row*] |

## Bank Guarantee for Performance Security

*[this is the format for the Performance Security to be issued by a scheduled Bank*

*of Bangladesh]*

|  |  |
| --- | --- |
| Contract No:- | Date: |
|  |  |
| To:  [Name and address of Procuring Entity] |  |

**PERFORMANCE GUARANTEE No:** *[insert number]*

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 unconditionally undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[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 *[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.

*[Signatures of authorized representatives of the bank]*

|  |  |
| --- | --- |
| Signature | Seal |

## Bank Guarantee for Advance Payment

*[this is the format for the Advance Payment Security to be issued by a scheduled Bank of Bangladesh]*

|  |  |
| --- | --- |
| Contract No: | Date: |
|  |  |
| To:  [Name and address of Procuring Entity] |  |

**ADVANCE PAYMENT GUARANTEE No:** [insert number]

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 Particular Conditions of Contract Clause 25.1, Advance Payment(s) on Contracts must be supported by an irrevocable unconditional Bank Guarantee.

At the request of the Supplier, we *[name of bank]* hereby irrevocably unconditionally undertake to pay you, without cavil or argument, any sum or sums not exceeding in total an amount of Tk *[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.

*[Signatures of authorized representatives of the bank]*

|  |  |
| --- | --- |
| Signature | Seal |

Sample Letter of Invitation for Negotiations

*[modify as appropriate]*

*[use letterhead paper of the PE]*

*[date]*

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

Subject: ***Invitation for negotiations of Contract No.*** . . . . . . . . ..

In reference to the invitation for direct contracting issued by us, [*insert reference number and date*], your offer [*insert reference number and date*] has been accepted for contract negotiations.

We invite you for contract negotiations ***[Insert logistics detail, date and time for negotiations]***

Authorized Signature:

Name and Title of Signatory:

Name of Agency: